2691.

SUPREME COURT OF THE UNITED STATES.

No. 99.

RICHARD GREGG AND CHARLES BALLANCE, PL'FFS IN ERROR,

vs.

ROBERT FORSYTH.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE NORTHERN DISTRICT OF ILLINOIS.

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GIDEON, Print.

Sealed and delivered, taken and acknowledged before me, and approved by me this second day of November, 1857.

SAMUEL TREAT,
District Judge U. S. for Eastern District of Missouri.

MISSOURI DISTRICTS, *set.*

I, Benjamin F. Hickman, clerk of the United States circuit court for the districts of Missouri, do hereby certify the foregoing to be a complete and correct transcript of the record of pleadings, proceedings, and exhibits, in a case in said court decided, wherein John J. Anderson, Reuben L. Anderson, and Erastus H. Gaylord were libellants, and the steamboat Republic and owners, intervening, were respondents and appellants, in as correct and complete a manner as the same remains on file and of record in my office.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court. Done at office in the city of Saint Louis, this 17th day of November, A. D. 1857.

[L. S.]

BEN. F. HICKMAN, *Clerk.*

By the Honorable Samuel Treat, one of the Judges of the Circuit Court of the United States for the districts of Missouri.

To John J. Anderson, Reuben L. Anderson and Erastus Gaylord:

Whereas Joseph E. Montgomery, Richard Willett, Benjamin G. Harrison, and James Phillips, claimants of the steamboat Republic, her tackle, &c., has lately appealed to the Supreme Court of the United States, from a decree lately rendered in the circuit court of the United States for the districts of Missouri, made in favor of you, the said John J. Anderson, Reuben L. Anderson, and Erastus Gaylord, against the steamboat Republic, her tackle, &c., and has filed the security required by law, you are therefore hereby cited to appear before the said Supreme Court at the city of Washington, on the first Monday of December next, to do and receive what may appertain to justice to be done in the premises.

Given under my hand at the city of St. Louis, Missouri, this second day of November, in the year of our Lord one thousand eight hundred and fifty-seven.

SAMUEL TREAT.

The within citation was served on me this 5th day of December, 1857.

JNO. H. RANKIN,
Proctor for Appellees.

Filed 12th of December, 1857.

2691.

SUPREME COURT OF THE UNITED STATES.

No. 99.

RICHARD GREGG AND CHARLES BALLANCE, PL'FFS IN ERROR,

vs.

ROBERT FORSYTH.

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GIDEON, Print.

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UNITED STATES OF AMERICA,
Northern district of Illinois, ss.

Pleas in the circuit court of the United States of America for the northern district of Illinois, held at the city of Chicago, in said northern district of Illinois, before the Hon. Thomas Drummond, judge of the district court of the United States for said northern district of Illinois, and (in the absence pro tempore of the Hon. John McLean, one of the justices of the Supreme Court of the United States) sole judge of said circuit court, on Wednesday the 29th day of July, in the July term of said court, in the year of our Lord one thousand eight hundred and fifty-seven, and of our independence the eighty-second year.

ROBERT FORSYTH
vs.
RICHARD GREGG and CHARLES BALLANCE. } In Ejectment.

Be it remembered, that heretofore, to wit, on the tenth day of July, in the year of our Lord one thousand eight hundred and fifty-five, in the July term, A. D. 1855, of the circuit court of the United States for the northern district of Illinois, came the said Robert Forsyth, plaintiff in this suit, by Messrs. Manning and Merriman, his attorneys, and filed in open court his declaration against the said Richard Gregg, defendant in this suit, in the plea aforesaid, together with a notice thereto attached, and also an affidavit of service thereof upon the said defendant; and also at the same time filed his bond for costs in the above entitled cause, which said bond, declaration, notice, and affidavit are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern district of Illinois, ss.

Circuit Court, July term, A. D. 1855.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria and northern district of Illinois, am held and firmly bound unto Richard Gregg, or to the officers of the circuit court of the United States for the northern district of Illinois, in the sum of five hundred dollars, to be paid to said Gregg or to the said officers aforesaid, their certain attorneys, heirs, executors, administrators or assigns, or successors in office; to which payment, well and truly to be made, I do bind myself, my heirs, executors, and administrators, and every of them, jointly, severally, and firmly by these presents.

Witness my hand and seal the 10th day of July, in the year of our Lord one thousand eight hundred and fifty-five.

The condition of the above obligation is such, that whereas Robert Forsyth has this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the northern district of Illinois against Richard Gregg:

Now, if the said Forsyth, his heirs, executors or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him the said plaintiff in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in his behalf, if judgment shall pass against the said defendant, and the costs fail to be collected of defendant, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation to be void, otherwise of full force and effect.

A. L. MERRIMAN. [SEAL.]

Endorsed: Filed this 10th day of July, A. D. 1855.
WM. H. BRADLEY, *Clerk.*

In the Circuit Court of the United States in and for the northern district of Illinois.

UNITED STATES OF AMERICA,
Northern district of Illinois, ss.

Of the July term, in the year of our Lord one thousand eight hundred and fifty-five.

Robert Forsyth, plaintiff in this suit, who is a citizen of the State of Missouri, one of the United States of America, complains of Richard Gregg, defendant in this suit, who is a citizen and inhabitant of the State of Illinois, in the United States of America, of a plea whereof he, the said defendant, with force and arms, &c., entered into the following described premises:

For that heretofore, to wit, on the first day of July, in the year of our Lord one thousand eight hundred and fifty-five, the said plaintiff was possessed of certain premises situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit: part of a lot in the village of Peoria covered by claims sixty-two and sixty-three, as confirmed by the confirmatory act of Congress approved March 3, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," described as follows, to wit: commencing at a point in said lot on Front street three feet northeasterly from the most southerly corner of said lot; thence southwesterly on said line of said Front street three feet to the most southerly corner of said lot; thence on the southwesterly line of said lot two hundred and seventy-one feet ten inches; thence northeasterly on the line of Water street, as laid out over said lot by Charles Ballance in his addition to the town of Peoria, nineteen feet; thence southeasterly to the place of begin-

ning; and being so possessed, the said defendant afterwards, to wit, on the second day of July, in the year of our Lord one thousand eight hundred and fifty-five, entered into such premises, and that he unlawfully withholds from the plaintiff the possession thereof, and said plaintiff avers that he claims title to said premises in fee.

And said plaintiff further avers, that the aforedescribed premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars.

Whereof said plaintiff says that he is injured and has sustained damages to a large amount, to wit, five hundred dollars, and therefore he sues, &c.

MANNING & MERRIMAN,
Attorney for plaintiff.

To the above named defendant: take notice that—

1. On the 8th day of the present term of the circuit court of the United States, within and for the northern district of Illinois, now in session at the city of Chicago, in said State of Illinois, on the 10th day of July, A. D. one thousand eight hundred and fifty-five, or as soon thereafter as counsel can be heard, a declaration, of which the above is a copy, will be filed in said court.

2. That upon filing the same, a rule will be entered requiring you, such defendant, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c., MANNING & MERRIMAN,
Attorney for plaintiff.

Dated July 9, 1855.

STATE OF ILLINOIS, *County of Peoria.*

David D. Irons, &c., being first duly sworn, deposes and says that he served a declaration and notice, of which the within and foregoing are copies, upon the within named defendant, by delivering the same to him personally on the 9th day of July, A. D. 1855.

D. D. IRONS, *She'ff P. C.*

Subscribed and sworn to before me, this 9th day of July, A. D. 1855.

A. L. MERRIMAN,
U. S. Com'r.

Endorsed: Filed July 10th, 1855.

WM. H. BRADLEY, *Cl'k.*

Whereupon the following rule to plead was entered upon the record of the proceedings of said court in sad entitled cause upon said tenth day of July, in the year last aforesaid, to wit:

ROBERT FORSYTH
vs.
RICHARD GREGG. } Ejectment.

Now comes the plaintiff by his attorney, and files his declaration in ejectment against the defendant, together with a notice thereto attached, and also an affidavit of a due service of a true copy of said declaration and notice upon the defendant, and on motion of the plaintiff, by his attorney, it is considered and adjudged by the court that the cause be docketed, and that the defendant plead thereto within twenty days, or that his default be entered.

And afterwards, to wit, on the eighteenth day of July, in the year of our Lord one thousand eight hundred and fifty-five, came the said Richard Gregg, defendant in this suit, by Charles Ballance, his attorney, and filed in said court his plea in the above entitled cause, which said plea is in the following words and figures, to wit:

In the United States Circuit Court for the northern district of Illinois, of the July term, A. D. 1855.

ROBERT FORSYTH
vs.
RICHARD GREGG. } In Ejectment.

The said defendant comes and defends the *the* force and injury, when, &c., and says he is not guilty of the trespass and ejectment in said declaration mentioned, in manner and form as the same are charged and alleged against him, and of this he puts himself upon the country, &c.

C. BALLANCE,
For defendant.

Endorsed: Filed July 18th, 1855.
W. H. BRADLEY, *Clerk.*

And afterwards, to wit, on Wednesday, the twenty-third day of July, in the year of our Lord one thousand eight hundred and fifty-six, in the July term, A. D. 1856, of said court, the following proceedings were had in said cause and entered of record, to wit:

ROBERT FORSYTH
vs.
RICHARD GREGG. } Ejectment.

By agreement of the parties, by their attorneys, it is ordered by the court that Charles Ballance, the landlord of the defendant, be made a co-defendant herein.

ROBERT FORSYTH
vs.
RICHARD GREGG and CHARLES BALLANCE. } Ejectment.

Now at this day came the parties by their attorneys, and upon issue joined thereupon came a jury of good and lawful men, to wit: Daniel Bedu, Elisha Putnam, Rufus Ordway, David J. Mixer, William McKee, Thomas Barnett, William Henry, Peter Stout, Daniel P. Holt, M. Tagart, John Brown, and D. Johnson, who were duly elected, tried and sworn; and after hearing a portion of the testimony, the hour of adjournment having arrived, the further trial of the cause is postponed until to-morrow morning.

And afterwards, to wit, on Thursday the twenty-fourth day of July, in the year of our Lord one thousand eight hundred and fifty-six, in the July term A. D. 1856 of said court, the following further proceedings were had in said cause and entered of record, to wit:

ROBERT FORSYTH
vs.
RICHARD GREGG and CHARLES BALLANCE. } Ejectment.

Now come again the parties by their attorneys, and the jury, with the exception of Daniel Bedu and William Henry, yesterday empanelled in this cause, also came, and in the absence of said two jurors, the parties by their attorneys hereby agree to waive all error and proceed in the trial to the remaining ten jurors, and that their verdict shall have the same force and effect as if the finding had been by the twelve jurors originally sworn in the cause, and after hearing the conclusion of the testimony and receiving instructions from the court, the jury returned the following verdict into the court, to wit: We, the jury, find the defendants guilty of unlawfully withholding from the possession of the plaintiff the land and premises described in his declaration, being those certain premises situated in the county of Peoria, in the State of Illinois, described as follows, to wit: part of a lot in the village of Peoria covered by claims sixty-two and sixty-three, as confirmed by the confirmatory act of Congress approved March 3d, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," described as follows, to wit: commencing at a point in said lot on Front street, three feet northeasterly from the most southerly corner of said lot; thence southwesterly on said line of said Front street three feet to the most southerly corner of said lot; thence on the southwesterly line of said lot two hundred and seventy-one feet ten inches; thence northeasterly on the line of Water street, as laid out on said lot by Charles Ballance in his addition to the town of Peoria, nineteen feet; thence southeasterly to the place of beginning. We also find the estate established in the plaintiff on the trial to be an estate in fee simple, and we assess the damages of the plaintiff at the sum of one cent. It is thereupon ordered and adjudged by the court that the plaintiff have and recover of and from the said defendants possession of the said

described land and premises, according to the force, form and effect of his said recovery, and that he have a writ of possession therefor, and that he also have and recover of the said defendants the said sum of one cent, his damages as aforesaid assessed, together with his costs by him about his suit in this behalf expended, amounting to the sum of dollars and cents, and that he have execution therefor.

And afterwards, to wit, on Wednesday the thirtieth day of July, in the year of our Lord one thousand eight hundred and fifty-six, in the July term A. D. 1856 of said court, the following further proceedings were had in said cause and entered of record, to wit:

ROBERT FORSYTH
vs. } Ejectment.
RICHARD GREGG and CHARLES BALLANCE.

The defendants by their attorney come and move the court to vacate the judgment entered against the defendants herein on the 24th of July instant, and to grant them a new trial; and it appearing satisfactorily to the court that the defendants have paid all the taxed costs herein, it is thereupon considered and adjudged by the court that said judgment be vacated and set aside, the cause re-docketed, and a new trial be had of the cause.

And afterwards, to wit, on Monday the twenty-seventh day of July, in the year of our Lord one thousand eight hundred and fifty-seven, in the July term, A. D. 1857, of said court, the following further proceedings were had in said cause and entered of record, to wit:

ROBERT FORSYTH
vs. } Ejectment.
RICHARD GREGG and CHARLES BALLANCE.

Now come the parties by their attorneys; and upon issue joined, thereupon come a jury of good and lawful men, to wit, E. B. Baker, Silas Bruce, E. W. Lusk, John Russell, William A. Pratt, William Gittings, Luther Lowell, Benjamin C. Davis, Levi J. Woodbury, Samuel Hourd, Robert Lincoln, and John Mosien, who were duly elected, tried and sworn; and after hearing part of the evidence, the hour of adjournment having arrived, the further trial of this cause is postponed until to-morrow morning.

And the next day, to wit, on Tuesday the twenty-eighth day of July, in the year of our Lord one thousand eight hundred and fifty-seven, in the July term, A. D. 1857, of said court, the following further proceedings were had in said cause and entered of record, to wit:

ROBERT FORSYTH
vs. } Ejectment.
RICHARD GREGG and CHARLES BALLANCE.

Now come again the parties by their attorneys, and now come also the jury heretofore empanelled in this cause, and after hearing the concluding evidence and the arguments of counsel, the hour of adjournment having arrived, the further consideration of the cause is postponed until to-morrow morning.

And afterwards, to wit, on Wednesday, the twenty-ninth day of July, in the year of our Lord one thousand eight hundred and fifty-seven, in the July term, A. D. 1857, of said court, the following further proceedings were had in said cause, and entered of record, to wit:

ROBERT FORSYTH
vs.
RICHARD GREGG and CHARLES BALLANCE. } Ejectment.

Now come again the parties by their attorneys, and now come also the jury heretofore empanelled herein, and after receiving instructions from the court the jury retired to consider of their verdict, and after a short absence returned into court with the following verdict, to wit: We, the jury, find the defendants guilty of unlawfully withholding from the possession of the plaintiff the real estate and premises described in the plaintiff's declaration, to wit: "certain premises situated in the county of Peoria, in the State of Illinois, and described as follows, to wit: part of a lot in the village of Peoria, covered by claims sixty-two and sixty-three, as confirmed by the confirmatory act of Congress approved March 3d, 1823, entitled 'An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois,' described as follows, to wit: commencing at a point in said lot on Front street, three feet northeasterly from the most southerly corner of said lot; thence southwesterly on said line of said Front street, three feet to the most southerly corner of said lot; thence on the southwesterly line of said lot two hundred and seventy-one feet ten inches; thence northeasterly on the line of Water street, as laid out over said lot by Charles Ballance in his addition to the town of Peoria, nineteen feet; thence southeasterly to the place of beginning. We also find the estate established in the plaintiff on the trial to be an estate in fee simple, and assess his damages at the sum of one cent.

It is thereupon considered and adjudged by the court, that the plaintiff have and recover of the defendants possession of the said described real estate and premises, according to the force, form and effect of his said recovery, and that he have a writ of possession therefor, and that he also have and recover of the defendants the said sum of one cent, his damages, together with his costs by him about his suit in this behalf expended, amounting to the sum of thirty-five dollars and eighty-five cents, and that he have execution therefor.

And afterwards, to wit, on the eighth day of August, in the year last aforesaid, came the said defendant, Charles Ballance, and filed in the clerk's office of said court his appeal bond in the foregoing entitled cause, which said appeal bond is in the words and figures following, to wit:

Supreme Court of the United States.

CHARLES BALLANCE } vs. ROBERT FORSYTH. } In Error.

Know all men by these presents, that we, Charles Ballance and , are held and firmly bound unto the above named Robert Forsyth, in the sum of one thousand five hundred dollars, to be paid to the said Robert Forsyth, his executors or administrators; to which payment well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated this fourth day of August, A. D. 1857.

Whereas the above named Charles Ballance has prosecuted a writ of error to the Supreme Court of the United States, to reverse a judgment rendered in favor of said Forsyth and against said Ballance and one Richard Gregg, by the circuit court of the United States for the northern district of Illinois; now, therefore, the condition of the above obligation is such, that if the above named Charles Ballance shall prosecute his said writ of error to effect, and answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void, otherwise the same shall remain in full force and virtue.

C. BALLANCE, [SEAL.]
WM. F. BRYAN. [SEAL.]

Sealed and delivered in presence of—

Aug. 8, 1857. Approved:

THOMAS DRUMMOND.

Endorsed: Filed August 8th, 1857.

WM. H. BRADLEY, *Clerk.*

Whereupon a writ of error was issued out of the office of the clerk of said court and filed in said cause, which said writ of error is in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern district of Illinois, ss.

The United States of America to the judges of the Circuit Court of the United States, for the northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition

of a judgment in a plea, which is in the said court, before you, between Robert Forsyth and against Richard Gregg and Charles Ballance, a manifest error hath happened, to the great damage of the said Richard Gregg and Charles Ballance, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid, in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States, this 8th day of August, A. D. 1857, and of our independence the 82d year.

[L. S.]

WM. H. BRADLEY, *Clerk.*

Endorsed: Filed August 8th, 1857.

WM. H. BRADLEY, *Clerk.*

The following exceptions were made by the defendants upon the trial of this cause, and were allowed by the court, to wit:

Circuit Court of the United States for the northern district of Illinois, July term, A. D. 1857.

ROBERT FORSYTH
vs.
RICHARD GREGG, CHARLES BALLANCE. } Ejectment.

Be it remembered, that on the trial of the above entitled cause, at the term of said court aforesaid, the said plaintiff, to maintain the issue on his part, produced before the jury the following evidence, to wit:

1st. A patent from the United States to the legal representatives of Antoine Lapance for French claim No. 63, which is as follows, to wit:

The United States of America to all to whom these presents shall come, greeting:

Whereas there has been deposited in the General Land Office a certificate, numbered three, of the register and receiver of the land office at Edwardsville, Illinois, whereby it appears that in the report dated 10th November, 1820, of Edward Coles, register of the land office at Edwardsville, Illinois, the claim of Antoine

And afterwards, to wit, on the eighth day of August, in the year last aforesaid, came the said defendant, Charles Ballance, and filed in the clerk's office of said court his appeal bond in the foregoing entitled cause, which said appeal bond is in the words and figures following, to wit:

Supreme Court of the United States.

CHARLES BALLANCE } vs. ROBERT FORSYTH. } In Error.

Know all men by these presents, that we, Charles Ballance and , are held and firmly bound unto the above named Robert Forsyth, in the sum of one thousand five hundred dollars, to be paid to the said Robert Forsyth, his executors or administrators; to which payment well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated this fourth day of August, A. D. 1857.

Whereas the above named Charles Ballance has prosecuted a writ of error to the Supreme Court of the United States, to reverse a judgment rendered in favor of said Forsyth and against said Ballance and one Richard Gregg, by the circuit court of the United States for the northern district of Illinois; now, therefore, the condition of the above obligation is such, that if the above named Charles Ballance shall prosecute his said writ of error to effect, and answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void, otherwise the same shall remain in full force and virtue.

C. BALLANCE, [SEAL.]
WM. F. BRYAN. [SEAL.]

Sealed and delivered in presence of—

Aug. 8, 1857. Approved:

THOMAS DRUMMOND.

Endorsed: Filed August 8th, 1857.

WM. H. BRADLEY, *Clerk.*

Whereupon a writ of error was issued out of the office of the clerk of said court and filed in said cause, which said writ of error is in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern district of Illinois, ss.

The United States of America to the judges of the Circuit Court of the United States, for the northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition

of a judgment in a plea, which is in the said court, before you, between Robert Forsyth and against Richard Gregg and Charles Ballance, a manifest error hath happened, to the great damage of the said Richard Gregg and Charles Ballance, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid, in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States, this 8th day of August, A. D. 1857, and of our independence the 82d year.

[L. S.]

WM. H. BRADLEY, *Clerk.*

Endorsed: Filed August 8th, 1857.

WM. H. BRADLEY, *Clerk.*

The following exceptions were made by the defendants upon the trial of this cause, and were allowed by the court, to wit:

Circuit Court of the United States for the northern district of Illinois, July term, A. D. 1857.

ROBERT FORSYTH
vs.
RICHARD GREGG, CHARLES BALLANCE. } Ejectment.

Be it remembered, that on the trial of the above entitled cause, at the term of said court aforesaid, the said plaintiff, to maintain the issue on his part, produced before the jury the following evidence, to wit:

1st. A patent from the United States to the legal representatives of Antoine Lapance for French claim No. 63, which is as follows, to wit:

The United States of America to all to whom these presents shall come, greeting:

Whereas there has been deposited in the General Land Office a certificate, numbered three, of the register and receiver of the land office at Edwardsville, Illinois, whereby it appears that in the report dated 10th November, 1820, of Edward Coles, register of the land office at Edwardsville, Illinois, the claim of Antoine

Lapance is entered as number sixty-three, and the claim of Simon Bertrand to the same lot is entered as number sixty-two; and whereas it further appears, from the certificate aforesaid, that the said Antoine Lapance is the inhabitant or settler within the purview of the confirmatory act of Congress approved 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," and that it has appeared to the satisfaction of the said register and receiver that the said inhabitant or settler did not, prior to the said act of 3d March, 1823, receive "a confirmation of claims, or donation of any tract of land or village lot from the United States," and that the legal representatives of the said Antoine Lapance, in virtue of the confirmatory act aforesaid, are entitled to a patent for a certain lot which is described as follows, to wit: the lot containing twenty-seven thousand four hundred and forty-nine square feet, and seven hundredths of a square foot, surveyed and designated as covered by said claims numbers sixty-three and sixty-two, in the southwest fractional quarter of fractional section nine, in township eight (north) of range eight east, of the fourth principal meridian, Illinois, according to the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri; and whereas, in the confirmatory act aforesaid of the 3d March, 1823, it is provided, that "nothing in this act contained shall be so construed as to affect the right, if any such there be, of any other person or persons to the said lots, or any part of them, derived from the United States, or any other source whatever," &c.:

Now know ye, that in consideration of the premises, and pursuant to the second section of the act aforesaid of the 3d March, 1823, there is granted by the United States to the said legal representatives of Antoine Lapance, and to their heirs, the lot of land above described, subject to the proviso aforesaid; to have and to hold the said lot of land, with the appurtenances, unto the said legal representatives of Antoine Lapance, and to their heirs and assigns forever, subject to the proviso aforesaid.

In testimony whereof, I, James K. Polk, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the first day of February, in the year of our Lord one thousand eight hundred and forty-seven, and of the independence of the United States the seventy-first.

By the President, JAMES K. POLK.

By J. KNOX WALKER, *Sec'y.*

[SEAL.] S. H. LAUGHLIN,

Recorder of the General Land Office.

Recorded vol. 10, pages 122 and 123.

Ex'd.

the we
No. 15,

nd Office.

2d. The act of Congress of May 15th, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

3d. An act of Congress of March 3d, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois."

4. A general plat of the French village of Peoria, as surveyed by Joseph C. Brown, and approved by the surveyor general of Illinois and Missouri on the 1st day of September, 1840, a copy of which, marked A, is hereunto attached and made part hereof.

Defendant objected to the introduction of this plat, because it did not appear to have been certified by the Secretary of the Treasury; but the court overruled said objection, and said plat was given in evidence to the jury.

"A."—Plat of the new village of Peoria, and of such of the out-lots and field-lots in the neighborhood thereof as are connected with said new village, in one continuous survey and description of the out-boundaries of the said town, and continued connection of out-lots and field-lots situate in sections 9 and 16, township 8 north of the base line, range 8 east of the 4th principal meridian.

[*For map see original, page* 22.]

Description.

Begin at the upper end of the southeastern edge of First street, on the northwest bank of Lake Peoria; thence N. 46½° W. one hundred feet to the eastern corner of unclaimed lot A; 420 feet 10 inches the north corner of said unclaimed lot A, at the northeast end of the S. E. edge of Second street; 486 feet 10 inches to the N. E. end of the N. W. edge of Second street; thence S. 43½° W. with the N. W. edge of Second street 256 feet 8 inches to the intersection with the N. E. edge of street A; thence N. 46½° W. with the N. E. edge of street A, 320 feet 10 inches to the N. W. end of the N. E. edge of said street A; thence S. 43½° W. 66 feet the north corner of lot No. 66 at the N. W. end of the S. W. edge of said street A; 108 feet 9⅓ inches the west corner of lot No. 66, and north corner of unclaimed lot C; 322 feet 8 inches the west corner of unclaimed lot C, and the north corner of lot No. 12; 408 feet 2⅔ inches the west corner of lot No. 12, and the N. W. end of the N. E. edge of street B; 474 feet 2⅔ inches the N. W. end of S. W. edge of street B, and the north corner of lot No. 8; 709 feet 6 inches the north corner of lot No. 15; 795 feet and ⅔ of an inch to the west corner of lot No. 8, which is also the west corner of lot No. 15, and east corner of lot No. 61, and north corner of lot No.

28; thence N. 46½° W. with the N. E. boundary of lot No. 61, 15 chains and 40 links to the north corner of lot No. 61; thence with the N. W. boundary of lot No. 61 S. 43½° W. 5 chains and 52¼ links to the west corner of lot No. 61; thence with the S. W. boundary of lot No. 61 S. 46½° E. 4 chains and 94 links to north corner of lot No. 51, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 61; thence with the N. W. boundary of lot No. 51 S. 43½° W. 4 chains and 88 links to the west corner of lot No. 51; thence with the S. W. boundary of lot No. 51 S. 46½° E. 6 chains and 10 links to the north corner of lot No. 40, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 51; thence with the N. W. boundary of lot No. 40 S. 43½° W. 3 chains and 23⅓ links to the west corner of lot No. 40; thence with the S. W. boundary of lot No. 40 S. 46½° E. 4 chains and 34 links to the N. W. end of the N. E. edge of street E, on the S. W. boundary of lot No. 40; thence S. 43½° W. 66 feet to the N. W. end of the S. W. edge of street E, and the north corner of unclaimed lot E, 322 feet 8 inches to the east corner of lot No. 31, at the intersection of the N. E. boundary thereof with the N. W. boundary of unclaimed lot E; thence with the N. E. boundary of lot No. 31 N. 46½° W. 13 chains and 16 links to the north corner of lot No. 31; thence with the N. W. boundary of lot No. 31 S. 43½° W. 3 chains and 88 links to the west corner of lot No. 31, at the intersection of the N. W. boundary thereof with the N. E. boundary of lot No. 37; thence with the N. E. boundary of lot No. 37 N. 46½° W. 5 chains and 5½ links to the north corner of lot No. 37; thence with the N. W. boundary of lot No. 37 S. 43½° W. 7 chains and 66 links to the west corner of lot No. 37; thence with the southwest boundary of lot No. 37 S. 46½° E. 6 chains and 67½ links to the north corner of lot No. 67, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 37; thence with the N. W. boundary of lot No. 67 S. 43½° W. 6 chains to the west corner of lot No. 67; thence with the southwest boundary of lot No. 67 S. 46½° E. 6 chains and 38 links to the south corner of lot No. 67, on the N. W. boundary of lot No. 64; thence S. 43½° W. 1 chain and 66 links the west corner of lot No. 64, and north corner of lot No. 20 7 chains and 61 links the west corner of lot No. 20, and north corner of lot No. 48 11 chains and 86 links to the west corner of lot No. 48; thence with the S. W. boundary of lot No. 48 S. 46½° E. 6 chains and 88 links the point of intersection of the S. W. boundary of lot No. 48 with the section line between sections 9 and 16, township 8 north, range 8 east of 4th principal meridian, which point is 13 chains and 93 links N. 89½° W. of the corner to fractional sections 9 and 16 on the lake, 8 chains to the south corner of lot No. 48; thence with the southeast boundary of lot No. 48 N. 43½° E. 1 chain and 6 links the point of intersection of the S. E. boundary of lot No. 48

with the section line between sections 9 and 16, township 8 north, range 8 east of the 4th principal meridian, which point is 12 chains and 38 links N. 89½° W. of the corner to fractional sections 9 and 16 on the lake, 4 chains and 25 links to the east corner of lot No. 48 on the S. W. boundary of lot No. 20; thence with the S. W. boundary of lot No. 20 S. 46½° E. 2 chains to the south corner of lot No. 20; thence N. 43½° E. 5 chains and 95 links the east corner of lot No. 20, and south corner of lot No. 64, 13 chains and 61 links the east corner of lot No. 64 and south corner of lot No. 43, 21 chains and 27 links to the east corner of lot No. 43, and south corner of lot No. 34, at the S. W. end of the N. W. edge of Second street; thence S. 46½° E. 66 feet the S. W. end of the S. E. edge of Second street, and west corner of lot No. 33; 386 feet 10 inches the south corner of lot No. 33; 491 feet 1⅓ inches to the lower end of the S. E. edge of First street on the N. W. bank of Lake Peoria; thence along the N. W. bank of Lake Peoria the following courses and distances: N. 38° E. 176 links; thence N. 42° E. 432 links; thence N. 17¾° E. 150 links; thence N. 78° E. 72 links; thence N. 47½° E. 417 links; thence N. 37° E. 188 links; thence N. 44¾° E. 2,448 links to the place of beginning.

Then for connection with the public surveys run from said place of beginning along the N. W. bank of Lake Peoria, the following courses and distances: N. 44¾° E. 1,081 links; thence N. 50¾° E. 1,300 links to the point of intersection of the section line between sections 9 and 10 with the N. W. bank of Lake Peoria, which point is 2,406 links S. 0° 30′ W. of the corner to sections 3, 4, 9 and 10, township 8 north, range 8 east of the 4th principal meridian. Also from the lower end of the S. E. edge of First street the following courses and distances along the bank of the lake were taken for connection: S. 51¾° W. 198 links; thence S. 39° W. 819 links; thence S. 41¼° W. 216 links; thence S. 49½° W. 287 links; thence S. 85° W. 116 links to the point of intersection of the section line between sections 9 and 16, township 8 north, range 8 east of the 4th principal meridian, which point is 2,510 links S. 89° 30′ E. of the corner to sections 8, 9, 16 and 17 of said township surveyed on the several days designated in the foregoing separate descriptions of the lots, by Joseph C. Brown, deputy surveyor, under instructions from Daniel Dunklin, surveyor of the public lands in the States of Illinois and Missouri, bearing date 11th of April, 1837.

Examined and approved this first day of September, 1840.

(Signed) WILLIAM MILBURN,
Surveyor of the Public Lands in the States of Illinois and Missouri.

SURVEYOR'S OFFICE,
Saint Louis, May 2d, 1849.

The foregoing plat and description of the out-boundaries of the new village of Peoria, in the State of Illinois, is correctly copied

from pages 79 and 80 of a book on file in this office, entitled "Record of Surveys, Peoria, Illinois."

F. R. CONWAY,
Surveyor of the Public Lands in the States of Illinois and Missouri.

5th. A special or separate plat of lot 63, to which the same objection was made, and the court ruled as in the other case, which plat is hereunto attached marked B, and prayed to be made a part hereof.

"B."—Claim No. sixty-three, situate in the southwest fractional quarter of fractional section 9, in fractional township 8 north of the base line, range 8 east of the 4th principal meridian.

Plat and description of the survey of a lot in the new village of Peoria, in the State of Illinois, confirmed to Antoine Lapance by an act of Congress approved the 3d of March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," it being No. 63 of the report made by the register of the land office at Edwardsville, in pursuance of an act of Congress approved the 15th of May, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

[*For plat see original, page* 28.]

Description: Commence at a post in the N. W. edge of First street, which post is the south corner of this lot and east corner of lot No. 59; thence N. 46½° W. 320 feet 10 inches to a post in the S. E. edge of Second street, which post is the west corner of this lot and north corner of lot No. 59; thence with the S. E. edge of Second street, N. 43½° E. 85 feet 6 inches and ⅔ of an inch to post the north corner of this lot and west corner of the survey of claims numbered 45 and 69; thence S. 46½° E. 320 feet 10 inches to a post in the N. W. edge of First street, which post is the east corner of this lot and south corner of the survey of claims numbered 45 and 69; thence with the N. W. edge of First street S. 43½° W. 85 feet 6 inches and ⅔ of an inch to the place of beginning.

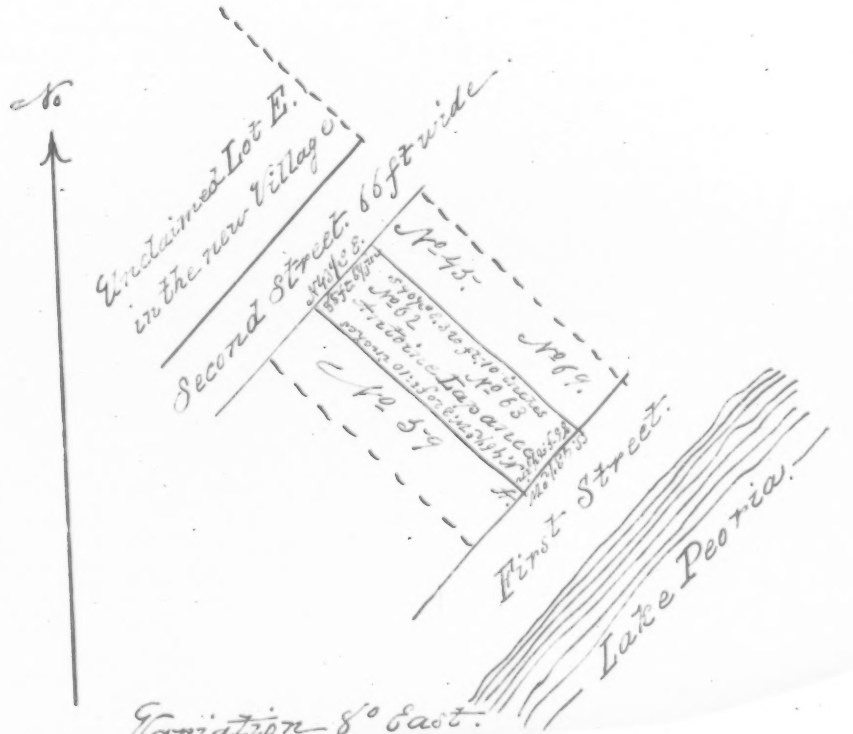
This lot contains 27,449 square feet and $\frac{7}{100}$ of a square foot of land, equal to 24,000 square feet French measure; and it is also confirmed to Simon Bertrand—see claim No. 62—the survey of which is identical with this survey.

Surveyed on the 1st of May, 1837, by Joseph C. Brown, deputy surveyor, under instructions from Daniel Dunklin, surveyor of the public lands in the States of Illinois and Missouri, bearing date the 11th of April, 1837.

Examined and approved this first day of September, 1840.

WILLIAM MILBURN,
Surveyor of the Public Lands in the States of Illinois and Missouri.

No 99 - Jan. 28



Variation 8° East.

Scale of 200 feet to One Inch.

OFFICE OF THE SURVEYOR GENERAL FOR ILLINOIS AND MISSOURI,
Saint Louis, March 10th, 1857.

The above plat and description of claim No. 63 is correctly copied from page 63 of the record of the survey of Peoria lands on file in this office.

JNO. LOUGHBOROUGH,
Surveyor General.

6th. He offered to read from the 3d vol. of American State Papers—Public Lands—selected and edited, under the authority of the United States Senate, by Walter Lowrie, Secretary of the Senate, and printed by Duff Green, so much of the report of Edward Coles, made to the Secretary of the Treasury, as has any reference to claim No. sixty-three, of Peoria French claims; to the reading of which to the jury, defendants objected, because said book did not appear to have been printed by order of both houses of Congress; but the court overruled said motion, and said report was read from said book to the jury.

7th. He offered in evidence a deed, which is as follows:

February 11th, 1846. This indenture, drawn and entered into this third day of January, in the year of our Lord one thousand eight hundred and forty-six, between Magdeline Glodon, wife of Nicholas Glodon, and Nicholas Glodon, Bazil Lecompte, and Morielgue his wife, all of the county of St. Clair, State of Illinois, of the first part, and Laurant Pensoneau, of the same county and State, of the second part, witnesseth: That for and in consideration of the sum of one hundred and twenty dollars, the receipt whereof is hereby acknowledged, the said party of the first part have granted, bargained and sold, and by these presents do grant, bargain, sell, quitclaim, transfer and convey, unto the said Laurant Pensoneau, his heirs and assigns forever, all their right, title and interest, in and to certain lots or pieces of ground, in and adjoining the village of Peoria, in Peoria county, State of Illinois, to wit: one lot described in patent certificate of the receiver and register of the land office at Edwardsville, No. 24, for claim No. 64, which is an out-lot or field, containing above nine arpents of land, situated near the village of Peoria, bounded on the north by an out-lot or field of Felix Fontaine, and on the south by a field of Pere La Vasseur dit Chamberlin, being situated on the southwest fractional quarter of section No. nine (9), township No. (8) north, range No. eight (8) east of the fourth principal meridian, according to the survey approved the 1st September, 1840, by the surveyor of the public land for the States of Illinois and Missouri. Also, one other tract contained in the aforesaid register and receiver's patent certificate No. 13, which is for claim No. 63, sixty-three, which is a village lot, confirmed, as well as the former tract, to Antoine Lasseur, being eighty feet in front, more or less, by about three hundred feet in depth (French measure,) and bounded north-

wardly by a lot occupied Louis Burnete, eastwardly by a street separating it from the Illinois river, southwardly by unoccupied land, and westwardly by a street, the same being situated in the southwest fractional quarter of section nine (9), in township No. eight north, range No. eight (8) east of the 4th principal meridian, in the said village of Peoria, according to the same survey above referred to; to have and to hold the same to his own proper use and behoof the said Laurant Pensoneau, his heirs and assigns forever. The said party of the first part aver that when Antoine Lassaure died, he left the said Magdeline Glodon (the Magdeline Lassure) his widow, and only five children, to wit: Monegue, (now wife of Basil Lacompt,) Elizabeth, (afterwards wife of John Hebert,) Bariel, Angeline and Maria; that Elizabeth, and John Hebert her husband, Basil, Angelique and Maria, are now all dead. Bazil, Anglinque and Maria died without issue; that Bazil and Angelique died since 1840; that Maria died about A. D. 1825; that Elizabeth and husband died in A. D. 1844, leaving one only child, John Hebert by name, aged about five years. The said party of the first part further covenants that they have never before sold their interest in said lands, and that they own the entire of said lands, except the interest of said John Herbert, minor.

In testimony whereof, the said party of the first part have hereunto set their hands and seals, the day and year first above written.

his
NICHOLAS ⋈ GLODON, [SEAL.]
mark.

her
MAGDELINE ⋈ GLODON, [SEAL.]
mark.

his
BAZIL ⋈ LECOMPT, [SEAL.]
mark.

her
MONIQUE ⋈ LACOMPT. [SEAL.]
mark.

Signed, sealed and delivered in the presence of—
VITAL JAROT,
NARCISSE PENSONEAU.

STATE OF ILLINOIS, *St. Clair County.*

I, Vital Jarrot, a justice of the peace in and for said county, do certify that Nicholas Glodon and Magdeline Glodon his wife, Basil Lacompt and Monique Lacompt his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in, and who executed the same, did each acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned; and the said Magdeline Glodon and Monique Lacompt having each by me been made acquainted with the contents of said deed; and examined separate

and apart from their said husbands, acknowledged that they had executed the same, and each relinquished and conveyed their right to the premises therein mentioned, voluntarily, freely, and without compulsion of their respective husbands.

Given under my hand and seal this third day of January, in the year of our Lord one thousand eight hundred and forty-six.

VITAL JARROT, *J. P.* [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, ss.

I, William McClintock, clerk of the county commissioner's court of the aforesaid county of St. Clair, do hereby certify that Vital Jarrot, whose name is subscribed to the foregoing instrument of writing, was at the time of signing the same, (namely the third day of January, A. D. 1846,) an acting justice of the peace within and for the said county of St. Clair, regularly commissioned and qualified, and as such full faith and credit are due, of right ought to be given to all his official acts.

In witness whereof, I have hereunto set my hand and seal of said court, at office in Bellville, the 6th day of February, A. D. 1846.

[L. S.]

WM. McCLINTOCK,
Clerk C. C. C. St. C. C.

LAND OFFICE, EDWARDSVILLE, ILLINOIS,
August 29th, 1845.

Certificate No. 24.

It is hereby certified that in the report dated 10th November, 1820, of Edward Coles, register of the land office at Edwardsville, Illinois, the claim of Antoine Lapance is entered as No. 64, and the said Antoine Lapance being the inhabitant or settler within the purview of the confirmatory act of Congress approved 3d March, 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois; and it appearing to the undersigned that the said inhabitant or settler did not, prior to the said act *act* of 3d March, 1823, receive a confirmation of claims or donation of any tract of land or village lot from the United States; therefore be it known, that the legal representatives of the said Antoine Lapance, in virtue of the confirmatory act aforesaid, are entitled to a patent for the lot of land described as follows, to wit, an out-lot or field containing about nine arpents of land, situated about one-fourth of a mile from Peoria, and bounded on the north by an out-lot or field of Felix Fountain, and on the south by the field of Pierre La Vassieur, (dit Chamberlaine,) in the southwest fractional quarter of section 9, township 8 north, 8 east of the fourth principal meridian, in the State of Illinois, ac-

cording to the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri.

JACOB JENLY, *Register.*
JOHN G. CAMERON, *Receiver.*

STATE OF ILLINOIS,
Peoria County, ss.

I, Enoch P. Sloan, clerk of the circuit court and ex officio recorder for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is a full and correct copy of a deed, and of the accompanying certificates thereof, as the same stand recorded on pages 165 and foll'g in book Q in the recorder's office in said county.

In witness whereof, I hereto set my hand and affix the seal of [L. S.] said court at my office, this 5th March, 1857.

ENOCH P. SLOAN, *Clerk.*

STATE OF ILLINOIS,
County of Peoria, ss.

Robert Forsyth, being first duly sworn, says that the original deed from Nicholas Glodon and Magdaline his wife, Bazil Lecompt and Monique his wife, to Laurant Pensoneau, of which the within is a copy, is not in the possession or control of deponent; that he has had possession of the same; that it went into the possession of deponent's attorneys, Manning and Merriman, and that he is informed by them that the same is lost.

ROBERT FORSYTH.

Subscribed and sworn to before me, this 9th day of March, 1857.

Witness my hand and seal notarial the day and year aforesaid.

BERNARD BAILY, *N. P.* [L. S.]

To the reading of which deed to the jury defendants objected, because it did not pass estate of a married woman; but the court overruled said objection, and said deed was read to the jury.

8th. He read without objection a deed, dated April 17, 1854, conveying all the interest of Elizabeth Pensoneau in said premises to Robert Forsyth.

9th. He offered to read to the jury a deed from Louis P. Pensoneau and wife to Narcisse Pensoneau, which is as follows:

This indenture, made and entered into this 23 day of June, A. D. 1851, between Louis P. Pensoneau and Sarah S. Pensoneau his wife, heirs-at-law of Laurant Pensoneau, deceased, late of the county of St. Clair, State of Illinois, and Narcisse Pensoneau, witnesseth: That the said Louis P. Pensoneau and Sarah S. his wife, parties of the first part, have, for and in consideration of the sum of four hundred dollars to them in hand paid, the receipt

whereof is hereby acknowledged from the said Narcisse Pensoneau, party of the second part, and the said parties of the first part grant, bargain and sell, and by these presents give, grant, bargain, sell, and forever convey unto the said party of the second part, his heirs and assigns forever, all the interest that they, the said parties of the first part, have in and to the estate of said Laurant Pensoneau, deceased, as one of his heirs, in the following described lands, to wit: 65 acres, taken off the southwest side of claim No. 1,832 in survey No. 571, situate in T. 2 N., R. 9 W., being the homestead of said deceased, and pt. E ½ N. E. fr'l ¼ of sect. No. 20, and part W. ½ N. E. fr'l ¼ sect. 20, and part N. ½ of S. W. ¼ sect. No. 20, and the N. E. fr'l S. E. ¼ of sect. No. 20, and the E. ½ S. W. ¼ of sect. No. 21, all in township No. 2 N., R. 9 W., containing some one hundred and sixty-four acres, more or less; and two hundred and fourteen acres of the south ½ of section No. 3, township No. 1 N., R. 9 W., all west of the 3d principal meridian, in St. Clair county, State of Illinois. And also all our interest in the following lots of land in the subdivision of the Cahokia commons, in the said county and State aforesaid, situate in T. 2 N., R. 9 W., which are known and designated on the recorded plat of said subdivision as lots No. 16, 17, 18, 19 and 44. And also my interest, as heir as aforesaid, in and to a certain lot in town of Peoria, county Peoria, State aforesaid, of which the said Laurant Pensoneau died seized, known and designated as lot No. 63, (confirmed and patented to the heirs of Antoine Lapancin, dec'd;) and also all interest that we now have or may hereafter have, arising out of any lawsuits now pending or hereafter to be pending relative to the estate of said dec'd in the county and State that might be assigned to us as one of his heirs-at-law, unto him the said Narcisse Pensoneau, his heirs and assigns. And we, the said parties of the first part, covenant and agree with the said party of the second part that we are fully entitled to the int's of our share of said estate herein sold unto him the said Narcisse Pensoneau, (herein conveyed said interest from all person or persons whatsoever claiming the same in, through, or under us, unto said Narcisse Pensoneau.)

In testimony whereof, we, the said parties of the first part, have hereunto signed our names and affixed our seals the day and year first above written.

LOUIS P. PENSONEAU, [SEAL.]
SARAH S. PENSONEAU. [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, sct.

I, John Scheel, clerk of county court within and for the county of St. Clair, and State of Illinois, hereby certify that Louis P. Pensoneau, and Sarah S. Pensoneau, whose names are signed to

cording to the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri.

JACOB JENLY, *Register.*
JOHN G. CAMERON, *Receiver.*

STATE OF ILLINOIS,
Peoria County, ss.

I, Enoch P. Sloan, clerk of the circuit court and ex officio recorder for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is a full and correct copy of a deed, and of the accompanying certificates thereof, as the same stand recorded on pages 165 and foll'g in book Q in the recorder's office in said county.

In witness whereof, I hereto set my hand and affix the seal of [L. S.] said court at my office, this 5th March, 1857.

ENOCH P. SLOAN, *Clerk.*

STATE OF ILLINOIS,
County of Peoria, ss.

Robert Forsyth, being first duly sworn, says that the original deed from Nicholas Glodon and Magdaline his wife, Bazil Lecompt and Monique his wife, to Laurant Pensoneau, of which the within is a copy, is not in the possession or control of deponent; that he has had possession of the same; that it went into the possession of deponent's attorneys, Manning and Merriman, and that he is informed by them that the same is lost.

ROBERT FORSYTH.

Subscribed and sworn to before me, this 9th day of March, 1857.

Witness my hand and seal notarial the day and year aforesaid.

BERNARD BAILY, *N. P.* [L. S.]

To the reading of which deed to the jury defendants objected, because it did not pass estate of a married woman; but the court overruled said objection, and said deed was read to the jury.

8th. He read without objection a deed, dated April 17, 1854, conveying all the interest of Elizabeth Pensoneau in said premises to Robert Forsyth.

9th. He offered to read to the jury a deed from Louis P. Pensoneau and wife to Narcisse Pensoneau, which is as follows:

This indenture, made and entered into this 23 day of June, A. D. 1851, between Louis P. Pensoneau and Sarah S. Pensoneau his wife, heirs-at-law of Laurant Pensoneau, deceased, late of the county of St. Clair, State of Illinois, and Narcisse Pensoneau, witnesseth: That the said Louis P. Pensoneau and Sarah S. his wife, parties of the first part, have, for and in consideration of the sum of four hundred dollars to them in hand paid, the receipt

whereof is hereby acknowledged from the said Narcisse Pensoneau, party of the second part, and the said parties of the first part grant, bargain and sell, and by these presents give, grant, bargain, sell, and forever convey unto the said party of the second part, his heirs and assigns forever, all the interest that they, the said parties of the first part, have in and to the estate of said Laurant Pensoneau, deceased, as one of his heirs, in the following described lands, to wit: 65 acres, taken off the southwest side of claim No. 1,832 in survey No. 571, situate in T. 2 N., R. 9 W., being the homestead of said deceased, and pt. E ½ N. E. fr'l ¼ of sect. No. 20, and part W. ½ N. E. fr'l ¼ sect. 20, and part N. ½ of S. W. ¼ sect. No. 20, and the N. E. fr'l S. E. ¼ of sect. No. 20, and the E. ½ S. W. ¼ of sect. No. 21, all in township No. 2 N., R. 9 W., containing some one hundred and sixty-four acres, more or less; and two hundred and fourteen acres of the south ½ of section No. 3, township No. 1 N., R. 9 W., all west of the 3d principal meridian, in St. Clair county, State of Illinois. And also all our interest in the following lots of land in the subdivision of the Cahokia commons, in the said county and State aforesaid, situate in T. 2 N., R. 9 W., which are known and designated on the recorded plat of said subdivision as lots No. 16, 17, 18, 19 and 44. And also my interest, as heir as aforesaid, in and to a certain lot in town of Peoria, county Peoria, State aforesaid, of which the said Laurant Pensoneau died seized, known and designated as lot No. 63, (confirmed and patented to the heirs of Antoine Lapancin, dec'd;) and also all interest that we now have or may hereafter have, arising out of any lawsuits now pending or hereafter to be pending relative to the estate of said dec'd in the county and State that might be assigned to us as one of his heirs-at-law, unto him the said Narcisse Pensoneau, his heirs and assigns. And we, the said parties of the first part, covenant and agree with the said party of the second part that we are fully entitled to the int's of our share of said estate herein sold unto him the said Narcisse Pensoneau, (herein conveyed said interest from all person or persons whatsoever claiming the same in, through, or under us, unto said Narcisse Pensoneau.)

In testimony whereof, we, the said parties of the first part, have hereunto signed our names and affixed our seals the day and year first above written.

LOUIS P. PENSONEAU, [SEAL.]
SARAH S. PENSONEAU. [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, sct.

I, John Scheel, clerk of county court within and for the county of St. Clair, and State of Illinois, hereby certify that Louis P. Pensoneau, and Sarah S. Pensoneau, whose names are signed to

cording to the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri.

JACOB JENLY, *Register.*
JOHN G. CAMERON, *Receiver.*

STATE OF ILLINOIS,
Peoria County, ss.

I, Enoch P. Sloan, clerk of the circuit court and ex officio recorder for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is a full and correct copy of a deed, and of the accompanying certificates thereof, as the same stand recorded on pages 165 and foll'g in book Q in the recorder's office in said county.

In witness whereof, I hereto set my hand and affix the seal of [L. S.] said court at my office, this 5th March, 1857.

ENOCH P. SLOAN, *Clerk.*

STATE OF ILLINOIS,
County of Peoria, ss.

Robert Forsyth, being first duly sworn, says that the original deed from Nicholas Glodon and Magdaline his wife, Bazil Lecompt and Monique his wife, to Laurant Pensoneau, of which the within is a copy, is not in the possession or control of deponent; that he has had possession of the same; that it went into the possession of deponent's attorneys, Manning and Merriman, and that he is informed by them that the same is lost.

ROBERT FORSYTH.

Subscribed and sworn to before me, this 9th day of March, 1857.

Witness my hand and seal notarial the day and year aforesaid.

BERNARD BAILY, *N. P.* [L. S.]

To the reading of which deed to the jury defendants objected, because it did not pass estate of a married woman; but the court overruled said objection, and said deed was read to the jury.

8th. He read without objection a deed, dated April 17, 1854, conveying all the interest of Elizabeth Pensoneau in said premises to Robert Forsyth.

9th. He offered to read to the jury a deed from Louis P. Pensoneau and wife to Narcisse Pensoneau, which is as follows:

This indenture, made and entered into this 23 day of June, A. D. 1851, between Louis P. Pensoneau and Sarah S. Pensoneau his wife, heirs-at-law of Laurant Pensoneau, deceased, late of the county of St. Clair, State of Illinois, and Narcisse Pensoneau, witnesseth; That the said Louis P. Pensoneau and Sarah S. his wife, parties of the first part, have, for and in consideration of the sum of four hundred dollars to them in hand paid, the receipt

whereof is hereby acknowledged from the said Narcisse Pensoneau, party of the second part, and the said parties of the first part grant, bargain and sell, and by these presents give, grant, bargain, sell, and forever convey unto the said party of the second part, his heirs and assigns forever, all the interest that they, the said parties of the first part, have in and to the estate of said Laurant Pensoneau, deceased, as one of his heirs, in the following described lands, to wit: 65 acres, taken off the southwest side of claim No. 1,832 in survey No. 571, situate in T. 2 N., R. 9 W., being the homestead of said deceased, and pt. E ½ N. E. fr'l ¼ of sect. No. 20, and part W. ½ N. E. fr'l ¼ sect. 20, and part N. ½ of S. W. ¼ sect. No. 20, and the N. E. fr'l S. E. ¼ of sect. No. 20, and the E. ½ S. W. ¼ of sect. No. 21, all in township No. 2 N., R. 9 W., containing some one hundred and sixty-four acres, more or less; and two hundred and fourteen acres of the south ½ of section No. 3, township No. 1 N., R. 9 W., all west of the 3d principal meridian, in St. Clair county, State of Illinois. And also all our interest in the following lots of land in the subdivision of the Cahokia commons, in the said county and State aforesaid, situate in T. 2 N., R. 9 W., which are known and designated on the recorded plat of said subdivision as lots No. 16, 17, 18, 19 and 44. And also my interest, as heir as aforesaid, in and to a certain lot in town of Peoria, county Peoria, State aforesaid, of which the said Laurant Pensoneau died seized, known and designated as lot No. 63, (confirmed and patented to the heirs of Antoine Lapancin, dec'd;) and also all interest that we now have or may hereafter have, arising out of any lawsuits now pending or hereafter to be pending relative to the estate of said dec'd in the county and State that might be assigned to us as one of his heirs-at-law, unto him the said Narcisse Pensoneau, his heirs and assigns. And we, the said parties of the first part, covenant and agree with the said party of the second part that we are fully entitled to the int's of our share of said estate herein sold unto him the said Narcisse Pensoneau, (herein conveyed said interest from all person or persons whatsoever claiming the same in, through, or under us, unto said Narcisse Pensoneau.)

In testimony whereof, we, the said parties of the first part, have hereunto signed our names and affixed our seals the day and year first above written.

LOUIS P. PENSONEAU, [SEAL.]
SARAH S. PENSONEAU. [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, sct.

I, John Scheel, clerk of county court within and for the county of St. Clair, and State of Illinois, hereby certify that Louis P. Pensoneau, and Sarah S. Pensoneau, whose names are signed to

the foregoing instrument of writing as having executed the same, are personally known to me to be the real persons who executed the same, and that they appeared before me and severally acknowledged the said instrument to be their free act and deed for the purposes therein mentioned. And I further certify that the said Sarah S. Pensoneau, wife of Louis P., was by me first made acquainted with the contents of said instrument, and examined separate and apart from her said husband, whether she had executed the same, and relinquished her right of dower in and to the lands and tenements therein mentioned and described, voluntarily, freely, and without compulsion of her said husband, and that she thereupon declared that she executed the said instrument, and relinquishes her dower in the lands and tenements therein mentioned, voluntarily, freely, and without compulsion of her said husband.

In testimony whereof, I have hereunto signed my name and affixed the seal of said court at office, this 27 day of June, [SEAL.] A. D. one thousand eight hundred and fifty-one.

JOHN SCHELL,
Clerk of C. Ct.

Recorded June 27, 1851.

STATE OF ILLINOIS,
County of St. Clair, sct.

I, William S. Thomas, clerk of the circuit court and ex officio recorder of deeds and other conveyances for the said county of St. Clair and State of Illinois, hereby certify that the foregoing is a true and correct copy of the original on record in my office in book A, No. 2, page 112.

In testimony whereof, I have hereunto signed my name and affixed the seal of said court at office this 4 day of April, [SEAL.] A. D. 1854.

WM. S. THOMAS, *Clerk.*
By FRED. W. KARSCH, *Deputy.*

Endorsed: Filed in the recorder's office of Peoria county, Illinois, October 24th, 1854, and recorded in book L A, pages 65 and 66.

JACOB GALE, *Recorder.*

To the reading of which deed defendants objected, on account of the description; but the court overruled said objection, and said deed was read in evidence to the jury.

10th. He read, without objections to its form, a deed from Mary Louise Byrne, of March 11, 1850, conveying all her interest in the premises to Narcisse Pensoneau.

11th. He read, without objection, a deed from Francis Pensoneau of June 16, 1851, conveying all his interest in the premises in dispute to Narcisse Pensoneau.

12th. He read, without objection, a deed from Paschal Pensoneau to Edward Pensoneau, of August 23, 1852.

13th. He read, without objection, a deed from Narcisse Pensoneau and wife, and Edward Pensoneau and wife, to Robert Forsyth, of June 29, 1854.

14th. He read, without objection, a deed from Charles Pensoneau and wife to Robert Forsyth, conveying all his interest in said premises to said Forsyth. Which deeds respectively conveyed the interest of the parties to the land in controversy.

15th. He offered the certified copy from the circuit court of Peoria county, and with it a commissioner's deed, which are as follows:

Be it remembered, that heretofore, to wit, on the twenty-fourth day of October, in the year of our Lord one thousand eight hundred and fifty-four, there was filed in the office of the clerk of the circuit court of Peoria county, in the State of Illinois, a petition for partition, precipe, security for costs, and exhibits referred to in said petition, which are as follows, to wit:

Petition.

In the Peoria Court, to November term, 1854.

STATE OF ILLINOIS, *Peoria County, ss.*

To the Hon. Onslow Peters, judge of the Peoria County Circuit Court in the State of Illinois, in chancery sitting.

The petition of Robert Forsyth respectfully represents unto your honor:

That he, together with the other persons hereinafter named, are the owners, as tenants in common, of the following tract or lot of land situate in the county of Peoria and State of Illinois, and known and described as follows, to wit: A certain French lot known as lot No. sixty-three, according to the map of the village of Peoria, being the same lot confirmed by the act of Congress of March third, 1823, to Antoine Lapance, and afterwards patented to the legal representatives of the said Antoine Lapance, said lot being about eighty-five feet in front by about three hundred feet in depth.

Petitioner further states, that he is the owner in fee simple of sixteen twenty-fourth parts, or two-thirds of said lot, and that the remaining portion of the same is owned as follows, to wit: one twenty-fourth part of the same is owned by Joseph Trotier; one twenty-fourth part by Amble Tramble and Adale Paran, wife of Gabriel Paran; and the remaining six twenty-fourth parts, or one fourth of the same, by John Herbert, junior, and that said lot is owned by said parties or owners as tenants in common, each being entitled to an undivided portion of said lot as above stated. Petitioner states, that he derives title to said premises in the manner following, to wit: Said lot was, by act of Congress of March 3d,

1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," confirmed to Antoine Lapance, and was afterwards patented by the United States Government to the legal representatives of the said Antoine Lapance; that the said Antoine Lapance became deceased without having conveyed said land, and died intestate, leaving a widow, Magdaline Lapance, and five children named as follows, to wit: Monique, Elizabeth, Basil, Angeline, and Maria Lapance, who were his only heirs-at-law; that Elizabeth afterwards intermarried with John Hebert, by whom she had one child named John Hebert, junior; that the said Elizabeth and her husband both died about the year 1844, leaving the said John Hebert, jun., her only heir; that the said Bariel, Angeline and Maria all died previous to the year 1844, without issue; that previous to the year 1846, Magdaline Lapance, widow of Antoine Lapance, deceased, intermarried with Nicholas Glodon, and the said Monique Lapance, daughter of said Antoine Lapance, intermarried with Bazil Le Compt; and that on the 3d day of January, 1846, the said Magdaline Glodon and the said Monique La Compt, together with the said John Hebert, jun., were the sole and only owners to said premises; that the said Magdaline Glodon and Monique Le Compt were the owners in fee simple of three undivided fourth parts of the same, and the said John Hebert, jun., the owner of the other fourth part of said lot.

Petitioner further states, that on or about the 3d day of January, A. D. 1846, the said Magdaline Glodon, together with her husband Nicholas Glodon, and Monique L. Compt, together with her husband Bazil Le Compt, joined in a conveyance, and deeded all their interest in and to said premises to one Laurant Pensoneau, a copy of which said deed is herewith filed as an exhibit marked "A," and by which said deed of conveyance the said Laurant Pensoneau became the owner of three undivided fourth parts of said lot. *Petioner* further states that the said Laurant Pensoneau departed this life on or about the day of A. D. 18 , intestate; that at the time of his death he left no children or descendants of a child or children, but that he left a widow and nine brothers and sisters, or their descendants, as his heirs and only heirs-at-law; that the names of said heirs are as follows, to wit: Elizabeth Pensoneau, widow, entitled to one-half of said $\frac{3}{4}$ of said lot; Charles Paschal, Francis Edward, Lewis P., and Narcisse Pensoneau, brothers, and each entitled to one ninth part of the other half of said $\frac{3}{4}$ of said lot; and Mary Louisa Byrne, daughter and only heir of a deceased sister of said Laurant Pensoneau, also entitled to one ninth of the one-half of said three-fourths, equal to one twenty-fourth of the whole of said lot; Joseph Trotier, son and only heir of Mary Trotier, a deceased sister of said Laurant Pensoneau, the father of said Joseph also being dead, also entitled to one twenty-fourth part of said lot; and Amable Tramble, Adale Paran, who are the children and only heirs of Bridget Tramble, a deceased sister of said Laurant

Pensoneau, the father of said children also being dead, and who are together entitled to one ninth of one-half of said ¾ of said lot, or one twenty-fourth part of the whole of said lot, making the whole of said three-fourths.

Petitioner further states, that Elizabeth Pensoneau, widow of said Laurant Pensoneau, by her deed of conveyance, dated the 17th day of April, A. D. 1854, conveyed all her interest in and to said premises to your petitioner, a copy of which deed is herewith filed, marked Exhibit "B," and the original will be produced on the hearing of this cause.

That Charles Pensoneau, brother of said Laurant Pensoneau, dec'd, by his deed of conveyance, dated the 28th day of June, A. D. 1854, conveyed all his interest in and to said premises to your petitioner, a copy of which deed is herewith filed as an exhibit marked "C," and the original will be produced upon the hearing of this cause.

That Paschal Pensoneau, brother to said Laurant Pensoneau, dec'd, conveyed all his interest to said premises to Edward Pensoneau, another brother, by deed dated August 3d, 1852, a copy of which said deed is herewith filed as an exhibit marked "D," and the original will be produced on the hearing of this cause.

That Francis Pensoneau, by his deed dated June 16th, 1851, conveyed all his interest in said premises to Narcisse Pensoneau, both brothers of Laurant Pensoneau, dec'd, a copy of which deed is herewith filed as an exhibit marked "E," and the original will be produced on the hearing of this cause.

That Mary Louisa Byrne, only heir of a deceased sister of said Laurant Pensoneau, conveyed all her interest to the said Narcisse Pensoneau by deed dated March 11th, 1850, a copy of which said deed is herewith filed as an exhibit marked "F," and the original will be produced on the hearing of this cause.

That the said Louis P. Pensoneau, brother of said Laurant Pensoneau, conveyed all his interest to said premises to the said Narcisse Pensoneau, by his deed dated the 23d day of June, A. D. 1851, a copy of which deed is herewith filed as an exhibit marked "G," and the original will be produced on the hearing of this cause.

That the said Edward Pensoneau and wife, and Narcisse Pensoneau and wife, by their deed of conveyance, dated the 29th day of June, A. D. 1854, conveyed to your petitioner all the interest which they then had, both by virtue of the above conveyances and as heirs of said Laurant Pensoneau, deceased, making ⅛ of one-half of the said three-fourths, or 6 twenty-fourths of the whole lot to petitioner, a copy of which deed is herewith filed as an exhibit marked "H," and the original will be produced on the hearing of this case.

That the above deeds of conveyance conveyed to your petitioner

16 twenty-fourth parts of said lot, or two-thirds, to which portion he claims to be the owner in fee simple.

Petitioner further states, that Joseph Trotier is the owner of one undivided 24th part of said lot to which he derives title, as the only heir-at-law of Mary Trotier, who was a sister of said Laurant Pensoneau, and entitled to one 9th part of $\frac{1}{2}$ of $\frac{3}{4}$ of said lot as above stated.

That Amable Tramble and Adale Paran are together the owners of one undivided 24th part of said lot, and derive title to the same by being the only heirs-at-law of Bridget Tramble, who was a sister of said Laurant Pensoneau, deceased, and also entitled to one 9th part of $\frac{1}{2}$ of $\frac{3}{4}$ of said lot.

That John Hebert, junior, is the owner of 6 undivided 24th parts of said lot, or $\frac{1}{4}$th of the same; that he derives title to the same by being the only heir-at-law of Elizabeth Lapance, afterwards Elizabeth Hebert, who was one of the heirs of Antoine Lapance, deceased, the confirmee of said lot as above stated.

Petitioner further states, that Adale Paran, formerly Adale Tramble, is now the wife of Gabriel Paran, who, as such husband, is interested in said premises.

That Amable Tramble, one of the heirs aforesaid, is a minor under the age of twenty-one, and that Narcisse Pensoneau is his guardian, duly appointed by the county court of St. Clair. That John Hebert, junior, is also a minor under the age of twenty-one years, (being one of the owners as aforesaid,) and that Hebert Hebert is his guardian, duly appointed by the county court of St. Clair county. Petitioner further states, that he knows of no other persons who are in any way interested in the said premises, except those above stated, and that he is anxious to have the same divided and the share of each of said owners allotted and set apart to him, her, or them respectively, if the same can be done consistently with the interests of said estate; and if not, that the same may be sold in the way and manner prescribed by the statute in such case made and provided. He therefore prays that the said Joseph Trotier, Amable Tramble, and Narcisse Pensoneau his guardian, Adale Paran, and Gabriel Paran, John Hebert, junior, and Herbert Hebert his guardian, may be made parties defendants to this proceeding, and that they and each of *the* be summoned, as the law directs, and be required to make full and complete answer to all and singular the statements and allegations above contained; and that upon the final hearing of this cause, a decree be granted by the court, making division and partition of said premises, according to the rights and interests of said parties hereto, as above stated; and that the said premises be sold, and the proceeds therefrom be divided amongst said parties according to their respective shares and rights in case partition cannot be made without injury to the parties or prejudice to the estate; and that your petitioner may

have such other and further relief in the premises as to your honor may seem meet and proper, and as to equity and good conscience appertain; and petitioner will ever pray, &c.

ROBERT FORSYTH.

STATE OF ILLINOIS,
Peoria County, ss.

Robert Forsyth, the above named petitioner, being first duly sworn, doth depose and say, that the matters and things stated and set forth in the foregoing petition by him subscribed are true to the best of his knowledge, information and belief, and further saith not.

ROBERT FORSYTH.

Subscribed and sworn to before me this 24th day of October, A. D. 1854.

JACOB GALE, *Clerk.*

Precipe.

In the Peoria Circuit Court, to November term, A. D. 1854.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, guardian of Amble Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } Petition for Partition.

The clerk will issue summons in chancery on the above case, directed to the sheriff of St. Clair county, returnable, &c.

PURPLE, SANGER & PRATT,
Sol'rs for Petitioner.

Security for Costs.

In the Peoria Circuit Court, to November term, A. D. 1854.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } In Chancery for Partition.

I do hereby enter myself security for costs in this cause, and acknowledge myself bound to pay or cause to be paid all costs which may accrue in this action, either to the opposite parties or to any of the officers of this court, in pursuance of the laws of this State. Dated this 23d day of October, A. D. 1854.

E. G. SANGER.

Exhibit "H."

This indenture, made this twenty-ninth day of June, A. D. one thousand eight hundred and fifty-four, between Narcisse Pensoneau, Felicite his wife, and Edward Pensoneau and Margareth his wife, county of St. Clair and State of Illinois, of the first part, and Robert Forsyth, of St. Louis county, and State of Missouri, of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of two hundred and fifty dollars in hand paid to the said party of the first part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, and sell to the said party of the second part, the following described tract or parcel of land, lying and being situated in the county of Peoria and State of Illinois, to wit: a certain French lot known as lot No. sixty-three (63) according to the map of the village of Peoria, county of Peoria and State of Illinois; said lot patented to the legal representatives of Antoine Lepance, and being $\frac{2}{3}$ of $\frac{3}{4}$ of said lot. This deed is intended to convey the interest owned by purchase, and coming to us as legal heirs of Laurent Pensoneau, who purchased the same from the legal heirs of said Lepance, dec'd. For a more particular description of said lot reference is made to said deeds, which are on record in said county of Peoria. To have and to hold the said tract or parcel of land, with all and singular the privileges and appurtenances thereunto belonging, unto him the said party of the second part, and to his heirs and assigns forever; and the said parties of the first part with and to the said party of the second part by these presents covenants and agrees, that the said interests are free from all incumbrances; that they are seized of an estate in fee simple in and to the same. In testimony whereof, the said party of the first part have hereunto set their names and seals the day and year first above written.

NARCISSE PENSONEAU, [L. S.]
FELICITE PENSONEAU, [L. S.]
EDWARD PENSONEAU, [L. S.]
her
MARGARETH ⋈ PENSONEAU. [L. S.]
mark.

STATE OF ILLINOIS,
County of St. Clair, ss.

J. John Scheel, clerk of the county court within and for the county of St. Clair and State of Illinois, hereby certify, that Narcisse Pensoneau and Felicite his wife, and Edward Pensoneau and Margareth his wife, whose names are signed to the foregoing instrument of writing, as having executed the same, are personally known to me to be the real persons who executed the same, and that they appeared before me and severally acknowledged the said

instrument to be their free act and deed for the purposes therein mentioned. And I further certify, that the said Felicite Pensoneau and Margareth Pensoneau were by me made acquainted with the contents of said instrument and examined separate and apart from their said husbands, whether they had executed the same and relinquished their right of dower in and to the lands and tenements therein mentioned and described voluntarily, freely, and without compulsion of their said husbands; and that they thereupon declared that they executed the said instrument and relinquished their dower in the lands and tenements therein mentioned voluntarily, freely, and without compulsion of their said husbands.

In testimony whereof, I have hereunto signed my name and affixed the seal of said court at office in Belleville, this 29th day of June, 1854. [L. S.]

JOHN SCHEEL.
By D. V. SEITZ, *Dep'ty.*

Exhibit "G."

This indenture, made and entered into this eleventh day of March, at the city of New Orleans and State of Louisiana, in the year of our Lord eighteen hundred and fifty, by and between Mary Louisa Byrnes, late Mary Lousia Valentine (one of the heirs of the late Lamorn Pensoneau, of the county of Saint Clair and State of Illinois,) of the city of New Orleans and State of Louisiana, party of the first part, and Narcissa Pensoneau, of the county of Saint Clair and State of Illinois, party of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of two hundred dollars current money of the United States to her in hand paid, the receipt whereof is hereby acknowledged and confessed, has granted, bargained, sold, aliened, conveyed, assigned and set over to the said party of the second part, all the property, rights in action, and interests hereinafter named and specified; that is to say, all my right, title, and interest in and to a certain tract or parcel of land, lying and being situated in what is known as the American Bottom, in the county of St. Clair and State of Illinois, known and designated as claim eighteen hundred and thirty-two, survey number five hundred and seventy-one, constituting a farm, and being the same on which the late Lamint Pensoneau died; for a further description of which property reference is here made to records of said county. Also certain lots or parcels of ground lying and being situated in the town of Peoria and State aforesaid, said lots of ground being the same as purchased by the late Lament Pensoneau, deceased, in his lifetime, of the heirs of the late Antoine Lapence, deceased, as by a reference to the records of the county in which the said town is situated, will more fully appear. Also certain lots or parcels of ground lying and being situated in the city of St. Louis, county of St. Louis and State of Missouri, situated

at the northeast corner of Poplar and Fourth streets of said city, and being the same lots or parcels of ground purchased by the late Lament Pensoneau, deceased, of Edward Cayer and wife and Jane M. Kinney, heirs of the late John Hays, deceased, of the city and State aforesaid; for a further description of which said lots reference is here made to the records of St. Louis county. Also all my right, title and interest in and to any and every right in action, suit, whether in law or equity, now pending in the courts either of the State of Illinois or Missouri, in which the said party of the first part is in anywise interested or a party to; together with all interest or claim I now have or may hereafter acquire, upon the estate of the late Lamiart Pensoneau, deceased, as one of the heirs-at-law to said estate: to have and to hold the said property, right in action, and interest in the estate of the late Lomeant Pensoneau, deceased, as aforesaid, together with all the rights, privileges and immunities to the same, in anywise belonging or appertaining, to the said party of the second part, his heirs, executors, administrators and assigns forever; and the said party of the first part doth covenant for herself, her heirs, executors, administrators and assigns, to warrant and defend the title to the said party of the second part, by virtue of these presents, against any and every lawful claim or claims whatsoever. In testimony whereof, the said party of the first part has hereunto set her hand and seal at the city of New Orleans, and State of Louisiana, aforesaid, the day and year first above written.

MARY LOUISE BYRNE, her ⋈ mark. [L. S.]

Signed, sealed and delivered in the presence of—
WILLIAM SHANNON,
J. W. BREDLOVE.

STATE OF LOUISIANA,
Parish and City of New Orleans.

On this twelfth day of March, eighteen hundred and fifty, before me, Albert Childe Ainsworth, commissioner of deeds for the States of Missouri and Illinois, duly appointed by the respective governors thereof, and qualified under oath of office to act in the State of Louisiana, personally appeared Mary Louise Byrne, the grantor aforenamed, and acknowledged the said deed or instrument of writing to be her act and deed, for the uses, purposes and considerations therein named, the said Mary Louise Byrne being to me satisfactorily proved to be the individual described in, and who executed the foregoing deed, by Philip Carjoint of New Orleans, a competent and credible witness for that purpose by me duly sworn.

[L. S.] In faith whereof, I grant my signature and official seal.
A. C. AINSWORTH, *Comm'r.*

2706

Exhibit "F."

This indenture, made and entered into this 23d day of June, A. D. 1851, between Louis P. Pensoneau and Sarah S. Pensoneau his wife, heirs-at-law of Laurent Pensoneau, deceased, late of the county of St. Clair, State of Illinois, and Narcisse Pensoneau, witnesseth, that the said Louis P. Pensoneau, and Sarah S. his wife, parties of the first part, have, for and in consideration of the sum of four hundred dollars to them in hand paid, the receipt whereof is hereby acknowledged, from the said Narcisse Pensoneau, party of the second part, and the said parties of the first part, grant, bargain and sell, and by these presents give, grant, bargain, sell and forever convey unto the said party of the second part, his heirs and assigns forever, all the interest that they, the said parties of the first part, have in and to the estate of said Laurant Pensoneau, deceased, as one of his heirs, in the following described lands, to wit: 65 acres taken off the southwest side of claim No. 1832, in survey No. 571, situated in 72 N., range 9 W., being the homestead of said deceased, and pt. E. ½ N. E. fr'l ¼ of sect. No. 20, and part W. ½ N. E. fr'l ¼ sect. 20, and part N. ½ of S. W. ¼ sect. No. 20, and the N. E. pt. S. E. ¼ of sect. No. 20, and the E. ½ S. W. ¼ of sect. No. 21, all in township No. 2 N., R. 9 W., containing some one hundred and sixty-four acres more or less, and two hundred and fourteen acres of the S. ½ of section No. 3, township No. 1 N., R. 9 W., all west of the 3d principal meridian, in St. Clair county, State of Illinois. And also, all our interest in the following lots of land in the subdivision of the Cahokia Commons, in the said county and State aforesaid, situated in T. 2 N., R. 9 W., which are known and designated on the recorded plat of said subdivision as lots No. 16, 17, 18, 19 and 44; and also my interest, as heir as aforesaid, in and to a certain lot in town of Peoria, county of Peoria, State aforesaid, of which the said Laurent Pensoneau died seized, known and designated as lot No. 63, (confirmed and patented to the heirs of Antoine Lapancin, dec'd); and also, all interest that we now have or may hereafter have, arising out of any lawsuits now pending or hereafter to be pending, relative to the estate of said dec'd, in the county and State, that might be assigned to *us* as one of his heirs-at-law, unto him the said Narcisse Pensoneau, his heirs and assigns; and we, the said parties of the first part, covenant and agree with the said party of the second part, that we are fully entitled to the int's of our share of said estate herein sold unto him the said Narcisse Pensoneau, (herein conveyed said interest from all person or persons whatsoever claiming the same, in, through or under us, unto said Narcisse Pensoneau. In testimony whereof, we, the said parties of the first part, have hereunto signed our names and affixed our seals the day and year first above written.

LOUIS P. PENSONEAU, [SEAL.]
SARAH S. PENSONEAU. [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, ss.

I, John Scheel, clerk of county court within and for the county of St. Clair, and State of Illinois, hereby certify that Louis P. Pensoneau and Sarah S. Pensoneau, whose names are signed to the foregoing instrument of writing as having executed the same, are personally known to me to be the real persons who executed the same, and that they appeared before me and severally acknowledged the said instrument to be their free act and deed for the purposes therein mentioned. And I further certify, that the said Sarah S. Pensoneau, wife of Louis P., was by me first made acquainted with the contents of said instrument, and examined separate and apart from her said husband, whether she had executed the same and relinquished her right of dower in and to the land and tenements therein mentioned and described, voluntarily, freely and without compulsion of her said husband, and that she thereupon declared that she executed the said instrument and relinquished her dower in the lands and tenements therein mentioned, voluntarily, freely, and without compulsion of her said husband.

In testimony whereof, I have hereunto signed my name and affixed the seal of said court at office this 27th day of [L. S.] June, A. D. one thousand eight hundred and fifty-one.

JOHN SCHEEL,
Clerk of C. C. P.

STATE OF ILLINOIS,
County of St. Clair, ss.

I, William S. Thomas, clerk of the circuit court, and ex officio recorder of deeds and other conveyances for the said county of St. Clair, and State of Illinois, hereby certify, that the foregoing is a true and correct copy of the original on record in my office, in book A, No. 2, page 112.

In testimony whereof, I have hereunto signed my name, and affixed the seal of said court, at office, this 4th day of [L. S.] April, A. D. 1854.

WM. S. THOMAS, *Clerk.*
By FRED. W. KARSCH, *Dep'ty.*

Exhibit "E."

This indenture, made and entered into this 16th day of June, A. D. 1851, between Francis Pensoneau, one of the heirs-at-law of Laurant Pensoneau, dec'd, late of the county of St. Clair, and State of Illinois, and Narcisse Pensoneau, of the city of Belleville, county and State aforesaid, witnesseth, that the said Francis Pensoneau, party of the first part, has, for and in consideration of the sum of two hundred and thirteen dollars to him in hand paid, the receipt whereof is hereby acknowledged, *has* granted, bar-

gained and sold, and by these presents grant, bargain, sell, and forever convey and confirm unto the said Narcisse Pensoneau, party of the second part, his heirs and assigns forever, all of the interest that he, the said party of the first part, has in and to the estate of said Laurant Pensoneau, deceased, as one of his heirs, in the following described land, to W. P., 65 acres taken off the southwest side of claim No. 1832, survey No. 571, situated in T. 2 N., R. 9 W., being the homestead of the said deceased, and pt. E. ½ N. E. fr'l ¼ section No. 20, and p'rt W. ½ N. E. p'rt of sect. No. 20, and p'rt N. ½ S. W. ¼ of sect. No. 20, and the N. E. p'rt S. E. ¼ of sect. No. 20, and the E. ½ S. W. ¼ sect. No. 21, all in T. 2 N., R. 9. W., containing one hundred and sixty-four acres more or less, and two hundred and fourteen acres of the S. ½ of sect. No. 3, 7, 9, N., R. 9 W. of the third principal meridian, in St. Clair county; and also my interest in the following lots of the subdivision of the Cahokia Commons in said county, in T. 2 N., R. 9 W., which are known on the recorded plat of said subdivision as lots No. 44, 16, 17, 18 and 19; and also all my interest in and to a certain lot in the town of Peoria, county of Peoria, of which the said Laurent Pensoneau *and* seized, known and designated as lot No. 63, (confirmed and patented to the heirs of Antoine Lapence, deceased,) and also all interest that I now have or may hereafter have, in and to said estate, as one of the heirs as aforesaid of Laucut Pensoneau, dec'd, in and to any of the within described land, lots, or assets arising therefrom, that might be assigned to me as one of the aforesaid heirs: to have and to hold all of the aforesaid int's herein intended to be conveyed unto him the said Narcisse Pensoneau, his heirs and assigns forever, conveying him all the interest that I have or may have in any of the within estate, and also the fee estate that may be in me as heir as aforesaid.

In testimony whereof, I have hereunto set my name and affixed my seal, the day and year first above written.

FRANCIS PENSONEAU. [SEAL.]

Signed in presence of—
JOHN STEPHENS.

STATE OF ILLINOIS,
County of St. Clair, sct.

I, John Scheel, clerk of the county court of St. Clair county, do certify, that Francis Pensoneau, whose signature appears to the foregoing deed, and who is personally known to me to be the person described in and who executed the same, did acknowledge the same to be his free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and seal at office of county court in
[L. S.] Belleville, this 17 day of June, 1851.

JOHN SCHEEL,
Clerk Co. Court St. Clair Co., Illinois.

Exhibit "D."

This deed, made and entered into this the twenty-third day of August, A. D. 1852, by and between Paschal Pensoneau of the first part, and Edward Pensoneau of the second part, all of the State of Missouri, witnesseth, that the said Paschal Pensoneau, for and in consideration of the sum of eight hundred dollars, the receipt of which is hereby achnowledged, hath bargained and sold, and by these presents doth bargain and sell, alien, convey and confirm unto the party of the second part and his heirs and assigns forever, all the interest which the said Paschal Pensoneau has or may be hereafter *be* entitled to in the estate of their late brother Lorant Pensoneau, consisting of a lot and parts of a lot of ground situated in the city of St. Louis, situated on the corner of Fourth and Poplar streets, in the city of St. Louis, and also all the interest *of* the said party of the first part may have, as one of the heirs-at-law of said Lorent Pensoneau, in the State of Illinois, in the lands belonging to the heirs of the said Lorent Pensoneau, situated in St. Clair county, and also other counties in the said State; it being the design of the said party of the first part to convey by this deed, to the party of the second part, all the interest he may have or take from the estate of said Lorent Pensoneau, as one of the heirs-at-law of the said deceased, of all kinds and descriptions, whether real or personal: the particular real estate is not specified, as the numbers and descriptions are not now in the possession of the parties, but is to be as binding as if they were fully described and specified; to have and to hold the said property herein conveyed to the said Edward Pensoneau and his heirs and assigns forever.

In testimony whereof the said Paschal Pensoneau has hereunto set his hand and seal this 23d day of August, 1852.

his
PASCHAL ⋈ PENSONEAU. [L. S.]
mark.

Attest: JOHN DONIPHAN,
SOL. P. MCKAMY.

STATE OF MISSOURI,
County of Platte, ss.

On this 23d day of August, A. D. 1852, personally appeared before the undersigned, judge of the Weston court of common pleas, a court of record in the State of Missouri, Paschal Pensoneau, who is personally known to me to be the person who executed the foregoing instrument, and the identical person therein mentioned, and signed the same in my presence, and acknowledged he executed the same for the uses and purposes therein contained, and desired the same might be recorded.

SOL. P. McCURDY,
Judge Weston Court of Common Pleas.

2708

Exhibit "C."

This deed, made and entered into this *day of* 28th day of June, eighteen hundred and fifty-four, between Charles Pensoneau, of the county of St. Clair and State of Illinois, of the first part, and Robert Forcyth, of the county of St. Louis and State of Missouri, of the second part, witnesseth, that *that* the said party of the first part, for and in consideration of the sum of fifty dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and by these presents do grant, bargain and sell, convey and confirm, unto the said party of the second part, his heirs and assigns forever, my interest in a certain lot, tract, or parcel of land lying and being in the county of Peoria and State of Illinois, and described as follows: lot number (63), patented to the legal representatives of Antoine Lapanse, de'd, late of Peoria, county of Peoria, State aforesaid, for further description of which reference is made to deed of Bazial Lacaumpt and wife and Madalin Lapanse, now Madalin Glodon, heir of said Antoine Lapance, to Laurant Pensoneau, now dec'd. This deed is intended to convey unto the said party of the second part one-ninth of one-half of the said interest above described, which he inherited as one of the heirs of said dec'd (L. Pensoneau,) to have and to hold the above described premises, together with all the privileges and appurtenances thereunto belonging, unto the said party of the second part, and to their heirs and assigns forever; the said party of the first part hereby covenanting that the said interest in said lot is free from all incumbrances, and that he will warrant and forever defend said interest in said lot unto the said party of the second part, his heirs and assigns, against the claim or claims of all persons whomsoever lawfully claiming the same.

In testimony whereof, the said party of the first part has *unto* set his name and seal this day and year above written.

CHARLES PENSONEAU. [L. S.]

STATE OF ILLINOIS,
County of St. Clair, sct.

I, Narcisse Pensoneau, a notary public, within and for the said county of St. Clair and State of Illinois, hereby certify, that Charles Pensoneau, whose names *are* signed to the foregoing instrument of writing as having executed the same, *are* personally known to me to be the real person who executed the same, and that he appeared before me and severally acknowledged the said instrument to be his act and deed for the purposes therein mentioned.

In testimony whereof I have signed my name and affixed my notarial seal, this 28th day of June, A. D. one thousand eight hundred and fifty-four.

NARCISSE PENSONEAU, [SEAL.]
Notary Public.

Exhibit B.

This deed, made and entered into this seventeenth day of April, in the year eighteen hundred and fifty-four, by and between Elizabeth Pensoneau, of the county of St. Clair, in the State of Illinois, of the first part, and Robert Forsyth, of the county of St. Louis, State of Missouri, of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of two hundred and seventy-five dollars to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does hereby grant, bargain and convey unto the said party of the second part all her right, title and interest, of, in and to the following described lot, piece, or parcel of land, situated in the town of Peoria, in the said State of Illinois, containing about eighty feet, French measure, more or less, in front, by three hundred feet, French measure, more or less, in depth, bounded northwardly by lot now or formerly belonging to Roboin or Birnet, southwardly by lot now or formerly of John B. Blondeau, eastwardly by a street separating it from the Illinois river, and westwardly by a street running parallel to the Illinois river, being lot numbered sixty-three (63) in Edward Cole's report to the Secretary of the Treasury of the United States, dated 10th November, 1820, and which lot was confirmed to Antoine Lapence by act of Congress approved March 3d, 1823, and being the same conveyed to the legal representatives of the said Antoine Lapence by the United States by patent dated 1st day of February, A. D. 1847, and recorded in volume 10, pages 122 and 123; to have and to hold the same, together with all and singular the rights, privileges and appurtenances thereunto belonging, unto him the said party of the second part, his heirs and assigns forever.

In witness whereof, the said party of the first part has hereunto set her hand and seal the day and year first above written.

her
ELIZABETH ⋈ PENSONEAU. [SEAL.]
mark.

Signed, sealed and delivered in presence of—
DU BUFFAY FREMON,
JOHN BOUILLETE.

STATE OF MISSOURI,
County of St. Louis, ss.

Be it remembered, that on this seventeenth day of April, 1854, before the undersigned, clerk of the St. Louis county court, came Elizabeth Pensoneau, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as a party thereto, and she acknowledged the same to be her act and deed for the purposes therein mentioned. And I further certify, that the foregoing deed is executed and acknowledged in

due form of law according to the statutes of the State of Missouri.

In witness whereof, I hereto set my hand and affix the seal of [L. S.] said court at office in St. Louis, the date last aforesaid.

JOSIAH THORNBURGH, *Cl'k.*

Exhibit "A."

This indenture, drawn and entered into this third day of January, in the year of our Lord one thousand eight hundred and forty-six, between Magdeline Glodon, wife of Nicholas Glodon, and Nicholas Glodon, Bazil Le Comb and Monilque his wife, all of the county of St. Clair, State of Illinois, of the first part, and Laurant Pensoneau, of the same county and State, of the second part, witnesseth, that for and in consideration of the sum of one hundred and twenty dollars, the receipt whereof is hereby acknowledged, the said party of the first part have granted, bargained, and sold, and by these presents do grant, bargain, sell, quit-claim, transfer and convey unto the said Laurant Pensoneau, his heirs and assigns forever, all their right, title and interest in and to certain lots or pieces of ground, in and adjoining the village of Peoria, in Peoria county, State of Illinois, to wit, one lot described in patent certificate of the receiver and register of the land office at Edwardsville, No. 24, for claim for No. 64, which is an out-lot or field containing above nine arpents of land, situated near the village of Peoria, bounded on the north by an out-lot or field of Felix Fontaine, and on the south by a field of Perre La Vasseur, dit Chamberlin, being situated on the southwest fractional quarter of section No. nine (9), township No. (8) north, range No. eight (8) east of the fourth principal meridian, according to the survey approved the 1st September, 1840, by the surveyor of the public land for the States of Illinois and Missouri; also one other tract contained in the aforesaid rigister and receiver's patent certificate No. 13, which is for claim No. 63, (sixty-three,) which is a village lot confirmed, as well as the former tract, to Antoine Lasseur, being eighty feet in front, more or less, by about three hundred feet in depth (French measure) and bounded northwardly by a lot occupied by Louis Pinnete, eastwardly by a street separating it from the Illinois river, southwardly by unoccupied land, and westwardly by a street, the same being situated in the southwest fractional quarter of section nine (9,) in township No. eight north, range No. eight (8) east of the 4th principal meridian, in the said village of Peoria, according to the same survey above referred to: to have and to hold the same to his own proper use and behoof the said Laurant Pensoneau, his heirs and assigns forever. The said party of the first part aver that when Antoine Lassaure died, he left the said Magdeline Glodon (then Magdeline Lasseure) his widow, and only five children, to wit, Monique (now wife of Basil La Compt,) Elizabeth (afterwards wife of John Hebert,) Bariel, Angeline and Maria. That

Elizabeth, and John Hebert her husband, Bariel, Angelique and Maria, are now all dead. Bazil, Angelique and Maria died without issue; that Bazil and Angelique died since 1840; that Maria died about A. D. 1825; that Elizabeth and husband died in A. D. 1844, leaving one only child, John Hebert by name, aged about five years. The said party of the first part further covenant that they have never before sold their interest in said lands, and that they own the entire of said lands, except the interest of said John Hebert, minor.

In testimony whereof, the said party of the first part have hereunto set their hands and seals the day and year first above written.

his
NICHOLAS ⋈ GLODON, [SEAL.]
mark.

her
MAGDELINE ⋈ GLODON, [SEAL.]
mark.

his
BAZIL ⋈ LE COMPT, [SEAL.]
mark.

her
MONIQUE ⋈ LA COMPT. [SEAL.]
mark.

Signed, sealed and delivered in presence of—
VITAL JAROT.

STATE OF ILLINOIS, *St. Clair County.*

I, Vital Jarrot, a justice of the peace in and for said county, do certify that Nicholas Glodon and Magdeline Glodon his wife, Basil La Compt and Monique La Compt his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in, and who executed the same, did each acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned; and the said Magdeline Glodon and Monique La Compt having each by me been made acquainted with the contents of said deed, and examined separate and apart from their said husbands, acknowledged that they had executed the same, and each relinquished and conveyed their rights to the premises therein mentioned, voluntarily, freely and without compulsion of their respective husbands.

Given under my hand and seal this third day of January, in the year of our Lord one thousand eight hundred and forty-six.

VITAL JARROT, *J. P.* [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, ss.

I, William McClintock, clerk of the county commissioner's court of the aforesaid county of St. Clair, do hereby certify that Vital Jarrot, whose name is subscribed to the foregoing instrument of

writing, was, at the time of signing the same, (namely, the third day of January, A. D. 1846,) an acting justice of the peace within and for the said county of St. Clair, regularly commissioned and qualified, and as such full faith and credit are due, and of right ought to be given to all his official acts.

In witness whereof, I have hereunto set my hand and seal of said court at office, in Belleville, the 6th day of February, A. D. 1846.

[SEAL.]

WM. McCLINTOCK,
Cl'k C. C. C. St. C. C.

And thereupon, on the same 24th day of October, A. D. 1854, the clerk of said court issued a summons under the seal of said court to the sheriff of St. Clair county, which, with the returns thereon endorsed, are as follows, to wit:

Summons.

The People of the State of Illinois to the Sheriff of St. Clair county, greeting:

We command you to summon Joseph Trotier, Amable Tramble, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, jr., and Hebert Hebert, guardian of John Hebert, jr., if they may be found in your county, to appear before our circuit court on the first day of the next term thereof, to be held at Peoria, within and for the said county of Peoria, on the third Monday of November next, then and there, in our said court, to answer the matters and things contained in a certain petition for partition exhibited against them in our said court, on the chancery side thereof, by Robert Forsyth, petitioner, and make return of this writ, with an endorsement of the time and manner of serving the same, on or before the first day of the term of the said court, to be held as aforesaid. Witness Jacob Gale, clerk of our said court, and the seal thereof, at Peoria, this 24th day of October, in the year of our Lord one thousand eight hundred and fifty-four.

JACOB GALE, *Clerk.* [L. S.]

Returns Endorsed:

Executed November 9th, 1854, by reading and delivering an attested copy of the within writ to each of the within named defendants, except Joseph Trotier, who was not found, but left a copy of the within at his usual residence with a white person over the age of ten years, and informing her of its contents.

THOS. CHALLENOR,
Sheriff St. C. C.

I acknowledge the service of the within this 2d day Nov., 1854.

NARCISSE PENSONEAU,
Guardian of Amable Tramble.

Proceedings in chancery before the circuit court, at a term thereof begun and held at the court-house, in the city of Peoria, in and for the county of Peoria, in the State of Illinois, on the third Monday in November, in the year of our Lord one thousand eight hundred and fifty-four, it being the twentieth day of said month; the Honorable Onslow Peters, judge of the sixteenth judicial circuit in said State, presiding, to wit:

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } For Partition, &c.

And now, on this day, this cause coming on to be heard, and it appearing to the court now here that the said defendants, and each of them, had been duly served with summons in this cause for more than ten days previous to the commencement of this suit, and that they, and each of them, have failed to plead, answer, or demur to said petition; but, after having been three times solemnly called, come not, but each and all of them make default: whereupon it is ordered by the court that said petition be taken for confessed as to each and all of said defendants. It is also ordered by the court that this cause be referred to George S. Blakely, master in chancery of this court, to take proofs of the truth of the allegations contained in the petition in this case, and that he report to this court immediately thereon.

And afterwards, on the 27th day of November, A. D. 1854, the report of the said master in chancery was filed in the words and figures following, to wit:

Master's Report.

STATE OF ILLINOIS,
Peoria County, ss.

Circuit Court Peoria county, November term, 1854.

In Chancery. For Partition.

The report of George S. Blakely, master in chancery of said court, to whom the cause of Robert Forsyth vs. Trotier et als. was referred to take and report proofs, respectfully shows, that he finds as follows: that said Robert Forsyth is the owner of two-thirds or sixteen twenty-fourth parts of the land mentioned in the petition, as filed herein, by conveyances from the heirs of Antoine Lapance and the heirs of his grantees.

That John Hebert is owner and entitled one-fourth or six twenty-

fourths of the same land, which he derives as heir-at-law of Elizabeth Lapance, afterwards Elizabeth Hebert, and daughter of said Antoine Lapance.

That Adale Paran and Amable Tramble are jointly owners of one twenty-fourth part of said land, which they derive title as heirs-at-law of Bridget Tramble, who was sister of Laurants Pensoneau, who died seized of three-fourths of said land which he derived from heirs of said Antoine Lapance.

That Joseph Trotier is owner of one twenty-fourth part of said land, which he derives title as heir-at-law of Mary Trotier, who was sister and heir-at-law of Laurents Pensoneau, making said title as follows: Robert Forsyth $\frac{16}{24}$ part; John Hebert, $\frac{6}{24}$ part; Adale Paran and Amable Tramble, $\frac{1}{24}$ part; Joseph Trotier, $\frac{1}{24}$ part; as is stated in the complainant's petition; all of which is respectfully submitted.

G. S. BLAKELY,
Master, &c.

Nov. 25, '54.

And thereupon on the same 27th day of November, A. D. 1854, at the same term of said court the following decree was made in said cause, to wit:

Decree of Partition, &c.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, NARCISSE PENSONEAU, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } For Partition, &c.

And now on this day this cause coming on to be heard, and it appearing to the court now here that the above named defendants have each of them been duly served with summons for more than ten days previous to the commencement of this term of court, and the said defendants and each of them having failed to plead, answer or demur to said petition, and upon being three times solemnly called, come not, but make default, whereupon it is ordered by the court that said petition as to each and all of said defendants be taken for confessed; and it also appearing to the court now here, from the report of George S. Blakely, master in chancery of this court, to whom this cause was by a former order of this court referred, for the purpose of taking proofs of the truth of the allegations in the petition in this case filed, and reporting them to the court, that Robert Forsyth, the petitioner in this case, is the owner in fee simple of sixteen undivided twenty-fourth parts of said lot or claim No. sixty-three, described in said petition; that the defendant, John Hebert, is the owner of six undivided twenty-fourth

parts of said premises described in said petition; that the defendant, Joseph Trotier, is the owner of one undivided twenty-fourth part of said premises, and that said defendants, Amable Tramble and Adale Paran, are jointly the owners of the other undivided twenty-fourth part of said premises;

And the court being fully advised in the premises, doth adjudge and declare, and this court by virtue of the authority therein vested, pursuant to statute in such case made and provided, doth adjudge and decree, that the rights, interests and estates of the several parties to this suit, in and to the premises and real estate aforesaid, are as follows, to wit: that the petitioner, Robert Forsyth, is the owner in fee simple of sixteen undivided twenty-fourth parts of said premises. That the defendant, John Hebert, is the owner in fee simple of six undivided twenty-fourth parts of said premises. That the defendant, Joseph Trotier, is the owner in fee simple of one undivided twenty-fourth part of said premises. And that the defendants, Adale Paran and Amable Tramble, are jointly the owners in fee simple of the other undivided one twenty-fourth part of said premises, and that the same is owned by them as tenants in common. And it is further ordered, adjudged, and decreed by the court, that partition be made of the said real estate hereinbefore described, among the said parties according to their respective rights and interests therein, as the same have been thus ascertained and adjudged by this decree, by this court.

And further, Benjamin L. T. Bourland, William C. Boilvin and Washington Cockle, citizens of Peoria county, not connected with any of the parties to this suit, either by consanguinity or affinity, and entirely disinterested, be and the same are hereby appointed commissioners for the purpose of making such partition, provided the same can be done consistent with the interests of the estate; that the said commissioners, before proceeding to the execution of their duties, shall each take an oath before some justice of the peace or the court, fairly and impartially to make partition of said premises, if the same can be done consistently with the interests of said estate, as directed by this decree. And that said commissioners shall go upon the premises aforesaid, and shall divide the same into twenty-four equal parts, according to quantity and quality, and shall thereupon allot by metes and bounds to the said petitioner, Robert Forsyth, sixteen of said parts; and to the said defendant, John Hebert, six of said parts; and to the said defendant, Joseph Trotier, one of said parts; and to said defendants, Adale Paran and Amable Tramble jointly, the other one of said parts: to be held and enjoyed by each of them in fee simple, in severalty, and shall designate the parts or portions so allotted to each; and further, that said commissioners shall make report of their proceedings herein, under their hands and seals, to this court at its present term, specifying therein the manner of executing this decree.

And afterwards, on the thirteenth day of December, A. D. 1854, there was filed in said cause the oaths of said commissioners, signed and duly certified, and their report in the words and *words and* figures following, to wit:

Commissioners' Oaths.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, NARCISSE PENSONEAU, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior.
} In the Peoria Circuit Court, for Partition, &c.

We, the undersigned, commissioners appointed to make partition of the premises described in the petition in this case, do each of us solemnly swear, that we will fairly and impartially make partition of said premises, if the same can be done consistently with the interests of said estate, between the parties, and in the way and manner directed by the decree in this case, and further say not.

W. C. BOILVIN,
BEN. L. J. BOURLAND,
WASHINGTON COCKLE.

Subscribed and sworn to before me this 6th day of December, A. D. 1854.

M. R. OWEN, *J. P.*

Report of Commissioners.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, NARCISSE PENSONEAU, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior.
} For Partition, &c.

The undersigned, commissioners appointed by the circuit court of Peoria county, to make partition of the land and premises described in the decree made in this case, to wit, claim No. sixty-three, in the village of Peoria, do certify and report to the said court, that after being duly sworn according to law, they did, on the 5th day of December, A. D. 1854, go upon the premises in the said decree mentioned and described and examine the same for the purpose of making partition thereof, and after such examination we are of opinion, and so report to the court, that the said premises cannot be divided between the several parties in interest, in and to the same, without manifest prejudice to the proprietors of the said estate, nor consistent with the interests of the said estate.

All which is respectfully submitted.

In testimony whereof, we have hereunto set our hands and seals this 6th day of December, A. D. 1854.

W. C. BOILVIN, [SEAL.]
BEN. L. T. BOURLAND, [SEAL.]
WASHINGTON COCKLE. [SEAL.]

And afterwards, on the thirteenth day of December, A. D. 1854, at the term of said court aforesaid, the following proceedings were had and decree made by said court, to wit:

Decree of Sale.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, NARCISSE PENSONEAU, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } To Partition, &c.

And now on this day this cause again coming on to be heard, and it appearing to the court by the report of the commissioners filed in this cause, that the real estate described in the complainant's or petitioner's petition in this case cannot be divided between the several parties in interest, in and to the same, without manifest prejudice to the proprietors thereof, nor consistent with the interest of the estate: it is therefore ordered, adjudged and decreed, that the said real estate, to wit, French claim No. sixty-three in the village of Peoria, being the same lot confirmed to Antoine Lapance by act of Congress approved March 3d, 1823, and afterwards patented to the legal representatives of said Antoine Lapance, be sold by George S. Blakeley, master in chancery of Peoria county, who is hereby appointed commissioner for that purpose, that said sale be made by said commissioner on Saturday the twentieth day of January, A. D. 1855, at the front door of the court-house in the city of Peoria, between the hours of ten o'clock a. m. and four o'clock p. m. of said day, he, the said commissioner, first giving three weeks' notice of the time, place and terms of said sale, by three successive weekly advertisements thereof in some newspaper printed and published in Peoria county, and that said commissioner sell said premises for cash. It is further ordered, adjudged and decreed, that after making such sale as aforesaid, the said commissioner make, execute and deliver to the purchaser or purchasers at said sale a deed or deeds of the premises so sold, according to law, conveying all the interest of the parties to this suit in and to said premises, and that he make report of his proceedings herein to the next term of this court, after making said sale as aforesaid.

And afterwards, on the ninth day of February, A. D. 1855, a report of the said master in chancery was filed in said cause in the words and figures following, to wit:

Report of Sale.

Circuit Court Peoria county, special February term, 1855. In Chancery.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, and others.

This day the master in chancery of this court *and* reports to the court that, in pursuance to a decree of this court rendered at the November term, A. D. 1854, he did, on the twenty-eighth day of December, A. D. 1854, advertise the premises in said decree described, in the Peoria Republican, a newspaper published in Peoria, and on the twentieth day of January, A. D. 1855, at the hour of 12 o'clock m. of said day, I offered said premises for sale at the front door of the court-house to the highest and best bidder for cash, and Robert Forsyth then and there bid for the said premises the sum of one hundred dollars, that being the highest and best bid for the same. I then and there struck off and sold said premises to him at that price, and made, executed and delivered to said Robert Forsyth a deed of said premises; that after paying the costs in said suit there is remaining in my hands sixty-two dollars and ninety cents, subject to the order of this court.

G. S. BLAKELEY,
Master, &c.

Proceedings in chancery before the circuit court at a special term thereof begun and held at the court-house in the city of Peoria, in and for the county of Peoria, in the State of Illinois, on the first Monday in February, in the year of our Lord one thousand eight hundred and fifty-five, it being the fifth day of said month; the Honorable Onslow Peters, judge of the sixteenth judicial circuit in said State, presiding, to wit:

Friday, February 9th, A. D. 1855.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } For Partition &c.

And now on this day, this cause again coming on to be heard, and it appearing to the court that the commissioner, George S. Blakeley, appointed by this court to make sale of the premises mentioned in the decree in this case, has filed his report herein, whereby it appears that said commissioner had made sale of said premises as directed in said decree, and that the complainant, Robert Forsyth, became the purchaser of the same, it is hereby ordered, adjudged

and decreed, that said report be in all things confirmed by the court, and that the deed executed to said Robert Forsyth by said George S. Blakely, commissioner, &c., operate to convey all the right, title and interest of the parties to this proceeding, in and to the premises so sold, to said Robert Forsyth, his heirs and assigns.

STATE OF ILLINOIS,
Peoria County, ss.

I, Jacob Gale, clerk of the circuit court in and for the county of Peoria, in the State of Illinois, do hereby certify, that the foregoing is a full, correct and complete transcript from the record of all the proceedings and all the papers on file in a certain cause in chancery in the circuit court aforesaid of Robert Forsyth, complainant, against Joseph Trotier, Amable Tramble, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior, defendants, for partition, &c., as the same are of record and on file in my office.

In witness whereof, I hereto set my hand and affix the seal of said court, at my office in the city of Peoria, this first day
[L. S.] of January, in the year of our Lord one thousand eight hundred and fifty-six.

JACOB GALE, *Clerk.*

Whereas the circuit court of Peoria county, in and for the State of Illinois, sitting as a court of chancery, at the November term A. D. one thousand eight hundred and fifty-four, in the cause wherein Robert Forsyth is petitioner, and Joseph Trotier, Amable Tramble, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior, are defendants, made the following decree, to wit: "And now on this day, this cause again coming on to be heard, and it appearing to the court by the report of the commissioners filed in this cause, that the real estate described in the complainant's or petitioner's petition in this case cannot be divided between the several parties in interest, in and to the same, without manifest prejudice to the proprietors thereof, nor consistent with the interest of the estate:

It is therefore ordered, adjudged and decreed, that the said real estate, to wit, French claim No. sixty-three (63) in the village of Peoria, being the same lot confirmed to Antoine Lapance, by act of Congress approved March 3d, 1823, and afterwards patented to the legal representatives of said Antoine Lapance, be sold by George S. Blakeley, master in chancery of Peoria county, who is hereby appointed commissioner for that purpose; that said sale be made by said commissioner on Saturday, the twentieth day of January, A. D. 1855, at the front door of the court-house, in the city of Peoria, between the hours of ten o'clock a. m. and four o'clock p.

m., of said day; he, the said commissioner, first giving three weeks' notice of the time, place and terms of said sale by three successive weekly advertisements thereof, in some newspaper printed and published in Peoria county, and that said commissioner sell said premises for cash.

It is further ordered, adjudged and decreed, that after making such sale as aforesaid, the said commissioner make, execute and deliver to the purchaser or purchasers at said sale a deed or deeds of the premises so sold, according to law, conveying all the interest of the parties to this suit in and to said premises, and that he make report of his proceedings herein to the next term of this court after making said sale as aforesaid:" and whereas I, George S. Blakely, master in chancery and commissioner as aforesaid, did advertise said land for sale, as is by said decree required, in the Peoria Weekly Republican, a newspaper printed and published weekly in said county of Peoria, and on the twentieth day of January, A. D. one thousand eight hundred and fifty-five, at the hour of twelve o'clock m. of said day, at the front door of the court-house in said county, I offered said premises for sale to the highest and best bidder for cash, and Robert Forsyth then and there bid for the same the sum of one hundred dollars, that being the highest and best bid therefor, I then and there struck off and sold said premises to him at that price: Therefore, know all men by these presents, that I, George S. Blakely, master in chancery and commissioner as aforesaid, in consideration of the sum of one hundred dollars to me in hand paid by said Robert Forsyth, have granted, bargained and sold, by these presents do grant, bargain and sell unto the said Robert Forsyth, his heirs and assigns, the following described premises, to wit: French claim number sixty-three (63), in the village of Peoria, being the same lot confirmed to Antoine Lapance by act of Congress approved March 3d, 1823, and afterwards patented to the legal representatives of said Antoine Lapance, together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining; to have and to hold the above described premises, with the appurtenances, unto the said Robert Forsyth, his heirs and assigns forever.

In witness whereof, I have hereunto set my hand and seal this twenty-fourth day of January, A. D. 1855.

[SEAL.] GEORGE S. BLAKELY,
Master in Chancery and Commissioner.

STATE OF ILLINOIS,
Peoria County, ss.

This day personally appeared before the undersigned, clerk of the circuit court in and for said county and State, George S. Blakely, master in chancery in and for said county and State, whose name

is subscribed to the foregoing deed as such master and commissioner, and acknowledged that he had executed said deed for the purposes therein expressed.

Witness my hand seal of said court this 24th day of January, A. D. 1855.

[L. S.] JACOB GALE, *Clerk.*

To the reading of which record and deed defendants objected, but the court overruled said objections, and said record and deed were read to the jury.

16th. He then offered in evidence the deposition of Narcisse Pensoneau, which is as follows:

Circuit Court of the United States for the northern district of Illinois.

Be it remembered, that on the thirtieth day of June, A. D. 1856, at Peoria, in the county of Peoria, and State of Illinois, Robert Forsyth personally appeared before me, a United States commissioner in and for said district and State, and made oath that he is plaintiff in four suits then pending in the circuit court of the United States for the northern circuit and district of Illinois, wherein Thomas Mehan is def't in one suit, Richard Gregg in another suit, John Dredge, John A. Keyes and Jesse Hester are def'ts in another suit, and Jesse L. Knowlton is defendant in another suit; that the testimony of Narcisse Pensoneau, of Belleville, in the county of St. Clair, in the State of Illinois, and now in Peoria, was material and necessary for the said plaintiff in the trial of each of such suits, and that he, the said plaintiff, lived in the county of St. Louis, and State of Missouri, more than one hundred miles from Chicago, where the court, at which the said plaintiff expected the said causes would be tried, was appointed by law to be held; and that each and all of the above named defendants resided at the city of Peoria, in the county of Peoria, and State of Illinois, more than 100 miles from Chicago aforesaid; and that Charles Ballance, their attorney, resided at Peoria, in the county of Peoria, about one hundred and sixty miles from Chicago aforesaid; and the said Thomas Forsyth requested me that the said witness Narcisse Pensoneau might be examined according to the directions of the act of Congress in such case made and provided; whereupon, I ordered that the said Narcisse Pensoneau should be examined de bene esse before me, at my office, in Peoria, in the county of Peoria, and State of Illinois, and that one day's notice should be given to the said defendants and each of them, or to their attorney, of such examination, or to the end that he might, if he should see fit, be present at the examination, and put interrogatories; and I having satisfactory proof that such notice had been given, and the said party, plaintiff, appearing before me at my office in Peoria, in the

county of Peoria, and State of Illinois, on this thirtieth day of June, A. D. 1856. I have, therefore, proceeded with the examination; and the said Narcisse Pensoneau being first carefully examined and cautioned, and duly sworn by me to testify the truth, the whole truth and nothing but the truth, saith as follows:

ROBERT FORSYTH }
vs. }
THOMAS MEHAN. }

Deposition of Narcisse Pensoneau in the above entitled case.

Examined by Plaintiff's Counsel.

My name is Narcisse Pensoneau; I live in Bellville, St. Clair county, Illinois, and my age is forty-one years. I recollect Antoine Lapance; I had but little acquaintance with him; he lived in St. Clair county; to the best of my recollection he died between 1820 and 1830, and in St. Clair county; he left a widow and five children at his death. The widow's name was Magdelin; she is now the wife of Nicholas Goden, and married Goden before the year 1846. The oldest daughter of Lapance was called Monique, who afterwards married Basil Le Compe before the year 1846; the second daughter was named Elizabeth, who, before the year 1846, married John Hebert, and Elizabeth died before 1846, and her husband, John Hebert, also died before 1846, leaving only one child, named John Hebert, who is still living; the other three children of Antoine Lapance, named Mary, Angelique, and Basil, all died minors before the year 1846, and all without issue. I am a subscribing witness to the deed now shown me, executed by Nicholas Goden, Magdelin Goden, Basil Le Compt, and Monique Le Compte, and hereto attached, marked "A;" I signed my name to said deed as a subscribing witness thereto, and I also saw Vetal Jarrot sign the same deed as subscribing witness, and Jarrot lives in St. Clair county, Illinois; I saw the aforesaid grantors in said deed sign the same by making each their marks thereto. I knew Laurent Pensoneau; he was my brother; he died in the year 1848, I think, and left a widow named Elizabeth, but no children; his father and mother were both dead at the time he died, but he left at his death brothers and sisters, and descendants of brothers and sisters. The names of his brothers are, and at his death were, Edward Pensoneau, myself, Charles, and Francis Pensoneau and Pascal Pensoneau; he left no sister living at the time of his death, but had had three sisters and one brother, who died before his death; those three sisters were: first, Mary Louise, who married John Valentine, and died, leaving only one child, named Mary Louise Valentine, who afterwards married Octave Byrnes, and was divorced from him before the year 1846; second, Mary Poupen, who *Joseph married* Trotier, and both Mary Poupen and her husband died before 1840, leaving only two children, named Mary and Joseph Trotier, and

Mary Trotier died without issue about 1844, and Joseph Trotier is still living; third, Bridget Pensoneau, who married Amable Tramble, and Bridget and her husband, Amable, both died before 1846, leaving four children, of whom Louis and Francis died unmarried, leaving no issue, prior to 1853, and Adele, who married Gabriel Paran, and is now living in St. Clair county; the fourth child is a son, named Amable Tramble, who is still living, and of whom witness is the guardian; the other brother of Laurent Pensoneau, who died before the death of Laurant Pensoneau, was Louis Pensoneau, who died between the years 1825 and 1830, leaving only one child, called Louis P. Pensoneau, and who is still alive. I have had in my possession the original deed from Louis P. Pensoneau and his wife, Sarah S., of which the annexed deed, marked "B," is a copy from the records. The original is lost or mislaid; I have searched for the original where it ought to be, but cannot find it after search.

NARCISSE PENSONEAU.

Marked "A," attached to Deposition of Narcisse Pensoneau.

This indenture, drawn and entered into this third day of January, in the year of our Lord one thousand eight hundred and forty-six, between Magdeline Gloden, wife of Nicholas Glodon, and Nicholas Glodon, Basil Le Compt and Monique, his wife, all of the county of St. Clair, State of Illinois, of the first part, and Laurant Pensoneau, of the same county and State, of the second part, witnesseth: That for and in consideration of the sum of one hundred and twenty dollars, the receipt whereof is hereby acknowledged, the said party of the first part have granted, bargained, and sold, and by these presents do grant, bargain, sell, quit-claim, transfer, and convey unto the said Laurant Pensoneau, his heirs and assigns forever, all their right, title, and interest in and to certain lots or pieces of ground in and adjoining the village of Peoria, in Peoria county, State of Illinois, to wit: one lot described in patent certificate of the receiver and register of the land office at Edwardsville, No. 24, for claim No. 64, which is an out-lot or field containing about nine arpents of land, situated near the village of Peoria, bounded on the north by an out-lot or field of Felix Fontaine, and on the south by a field of Pierre La Vasseur, (dit Chamberlain,) being situated in the southwest fractional quarter of section No. nine (9), township No. 8 north, range No. eight (8) east of the 4th principal meridian, according to the survey approved the 1st September, A. D. 1840, by the surveyor of the public land for the States of Illinois and Missouri; also one other tract contained in the aforesaid register and receiver's patent certificate No. 13, which is for claim No. 63 (sixty-three), which is a village lot, confirmed as well as the former tract to Antoine Lapanse, being eighty feet in front, more or less, by about three hundred feet in depth, (French

measure,) and bounded northwardly by a lot occupied by Louis Binete, eastwardly by a street separating it from the Illinois river, southwardly by unoccupied land, and westwardly by a street, the same being situated in the southwest fractional quarter of section nine (9), in township No. eight north, range No. eight (8) east of the 4th principal meridian, in the said village of Peoria, according to the same survey above referred to: to have and to hold the same for his own proper use and behoof, the said Laurant Pensoneau, his heirs and assigns forever. The said party of the first part aver that when Antoine Lapanse died he left the said Magdeleine Glodon, (then Magdeleine Lapanse,) his widow, and only five children, to wit: Monique, (now wife of Basil Le Compt,) Elizabeth, (afterwards wife of John Hebert,) Basil, Angelique and Marie; that Elizabeth and John Hebert, her husband, Basil, Angelique and Marie are now all dead; Basil, Angelique and Marie died without issue; that Basil and Angelique died since A. D. 1840, and that Marie died about A. D. 1825; that Elizabeth and husband died in A. D. 1844, leaving one only child, John Hebert by name, aged about five years. The said party of the first part further covenant, that they have never before sold their interest in said lands, and that they own the entire of said lands, except the interest of said John Hebert, minor. In testimony whereof, the said party of the first part have hereunto affixed their hands and seals the day and year first above written.

NICHOLAS his ⋈ mark. GLODON, [SEAL.]

MAGDELEINE her ⋈ mark. GLODON, [SEAL.]

BASIL his ⋈ mark. LE COMPT, [SEAL.]

MONIQUE her ⋈ mark. LE COMPT. [SEAL.]

Signed, sealed, and delivered in presence of—
VITAL JARROTT,
NARCISSE PENSONEAU.

STATE OF ILLINOIS,
St. Clair County, ss.

I, Vital Jarrot, a justice of the peace in said county, do certify that Nicholas Gloden and Magdeleine Gloden, his wife, Basil Le Compt and Monique Le Compt, his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in and who executed the same, did each acknowledge that they had executed the said conveyance for the uses

and purposes therein mentioned, and the said Magdelein Glodon and Monique Le Compt, having each by me been made acquainted with the contents of the said deed, and examined separate and apart from their respective husbands, acknowledged that they had executed the same, and each relinquished and conveyed their rights to the premises therein mentioned voluntarily, freely, and without compulsion of their respective husbands. Given under my hand and seal this third day of January, in the year of our Lord one thousand eight hundred and forty-six.

VITAL JARROT, *J. P.* [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, ss.

I, William McClintock, clerk of the county commissioners' court of the aforesaid county of St. Clair, do hereby certify, that Vital Jarrot, whose name is subscribed to the foregoing instrument of writing, was at the time of signing the same, (namely, the third day of January, A. D. 1846,) an acting justice of the peace within and for the said county of St. Clair, regularly commissioned and qualified, and as such full faith and credit are due, and of right ought to be given to all his official acts.

In witness whereof, I hereunto set my hand and affix the seal of the said court, at office in Belleville, the 6th day of February, A. D. 1846.

[L. S.]

WM. McCLINTOCK,
Clerk C. C. C. St. C. C.

Endorsed: Filed December 4th, 1854, and recorded in book No. A, pages 203, 204 and 205, in recorder's office of Peoria county, Illinois.

JACOB GALE, *Recorder.*

STATE OF ILLINOIS, COUNTY OF PEORIA,
Recorder's Office.

I, Charles Kettelle, recorder in and for the county aforesaid, do hereby certify the within deed is duly recorded in said *said* office, in book Q, pages 165 and 166, on this eleventh day of February, A. D. 1846.

CHARLES KETTELLE, *R. P. Co.*

Marked "B," attached to Deposition of Narcisse Pensoneau.

This indenture, made and entered into this 23 day of June, A. D. 1851, between Louis P. Pensoneau and Sarah S. Pensoneau, his wife, heirs-at-law of Laurant Pensoneau, deceased, late of the county of St. Clair, State of Illinois, and Narcisse Pensoneau, witnesseth, that the said Louis P. Pensoneau and Sarah S., his wife, parties of the first part, have, for and in consideration of the sum of four hundred dollars to them in hand paid, the receipt

whereof is hereby acknowledged, from the said Narcisse Pensoneau, party of the second part, and the said parties of the first part grant, bargain and sell, and by these presents give, grant, bargain, sell, and forever convey, unto the said party of the second part, his heirs and assigns forever, all the interest that they the said parties of the first part have in and to the estate of said Laurent Pensoneau, deceased, as one of his heirs, in the following described lands, to wit: 65 acres, taken off the southwest side of claim No. 1,832, in survey No. 571, situate in T. 2 N., R. 9 W., being the homestead of said deceased, and pt. E. ½ N. E. fr'l ¼ of sect. No. 20, and part W. ½ N. E. fr'l ¼ sect. 20, and part N. ½ of S. W. ¼ sect. No. 20, and the N. E. fr'l S. E. ¼ of sect. No. 20, and the E. ½ S. W. ¼ of sect. No. 21, all in township No. 2 N., R. 9 W., containing some one hundred and sixty-four acres more or less, and two hundred and fourteen acres of the south ½ of section No. 3, township No. 1 N., R. 9 W., all west of the 3d principal meridian, in St. Clair county, State of Illinois. And also all our interest in the following lots of land in the subdivision of the Cahokia Commons, in the said county and State aforesaid, situate in T. 2 N., R. 9 W., which are known and designated on the recorded plat of said subdivision as lots No. 16, 17, 18, 19 and 44. And also my interest, as heir as aforesaid, in and to a certain lot in town of Peoria, county Peoria, State aforesaid, of which the said Laurent Pensoneau died seized, known and designated as lot No. 63, (confirmed and patented to the heirs of Antoine Lapancin, dec'd); and also, all interest that we now have or may hereafter have, arising out of any lawsuit now pending or hereafter to be pending, relative to the estate of said dec'd, in the county and State, that might be assigned to us as one of his heirs-at-law, unto him the said Narcisse Pensoneau, his heirs and assigns. And we, the said parties of the first part, covenant and agree with the said party of the second part, that we are fully entitled to the int's of our share of said estate herein sold unto him the said Narcisse Pensoneau, herein conveyed said interest from all person or persons whatsoever, claiming the same in, through or under us, unto said Narcisse Pensoneau. In testimony whereof, we, the said parties of the first part, have hereunto signed our names and affixed our seals, the day and year first above written.

LOUIS P. PENSONEAU, [SEAL.]
SARAH S. PENSONEAU. [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, sct.

I, John Scheel, clerk of county court within and for the county of St. Clair, and State of Illinois, hereby certify, that Louis P. Pensoneau and Sarah S. Pensoneau, whose names are signed to the foregoing instrument of writing, as having executed the same, are

personally known to me to be the real persons who executed the same, and that they appeared before me and severally acknowledged the said instrument to be their free act and deed for the purposes therein mentioned. And I further certify, that the said Sarah S. Pensoneau, wife of Louis P., was by me first made acquainted with the contents of said instrument, and examined separate and apart from her said husband, whether she had executed the same, and relinquished her right of dower in and to the lands and tenements therein mentioned and described, voluntarily, freely, and without compulsion of her said husband, and that she thereupon declared that she executed the said instrument and relinquishes her dower in the lands and tenements therein mentioned, voluntarily, freely, and without compulsion of her said husband.

In testimony whereof, I have hereunto signed my name, and affixed the seal of said court at office, this 27th day of June, A. D. one thousand eight hundred and fifty-one.

[L. S.]

JOHN SCHEEL, *Cl'k of C. Ct.*

Recorded June 27, 1851.

STATE OF ILLINOIS,
County of St. Clair, sct.

I, William S. Thomas, clerk of the circuit court, and ex officio recorder of deeds and other conveyances for the said county of St. Clair, and State of Illinois, hereby certify, that the foregoing is a true and correct copy of the original in my office, in book A, No. 2, page 112.

In testimony whereof, I have hereunto signed my name and affixed the seal of said court at office, this 4 day of April, A. D. 1854.

[L. S.]

WM. S. THOMAS, *Clerk.*
By FRED. W. KARSCH, *Deputy.*

Endorsed: Filed in the recorder's office of Peoria county, Illinois, October 24th, 1854, and recorded in book L A, pages 65 and 66.

JACOB GALE, *Recorder.*

And I certify, that the exhibits marked "A" and "B," were attached to the foregoing deposition by me, at the request of said witness; and I do further certify, that the preceding deposition was reduced to writing by me, and signed by the said Narcisse Pensoneau, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

In testimony whereof, I have hereunto set my hand and affixed my private seal, the day and year first above written.

GEO. T. METCALF, [SEAL.]

June 30th, 1856. *U. S. Commissioner.*

To the reading of which deposition defendants now for the first time objected, because it already appears by said deed of said Narcisse that he had warranted this title, and was consequently interested, whereupon plaintiff's attorney read an affidavit of plaintiff, which is as follows:

In the U. S. Circuit Court northern district of Illinois, July term, 1857.

ROBERT FORSYTH
vs.
RICHARD GREGG,
CHARLES BALLANCE.

Robert Forsyth, the above named plaintiff, being first duly sworn, deposes and says, that this cause was tried at the July term, A. D. 1856; that on said trial the deposition of Narcisse Pensoneau was introduced in evidence; which deposition was taken on the 30th day of June, 1856, upon a notice given to take the deposition of said witness in the following named cases: Robert Forsyth vs. Thomas Mehan, Robert Forsyth vs. Richard Gregg, Robert Forsyth vs. John Dudge, John A. Keys and Jesse Hester, Robert Forsyth vs. Jesse L. Kurmeton, and upon which notice is the following agreement: "It is agreed that the deposition of the within named witness may be taken in one of the within named cases, and that the same deposition may be read in evidence in each of the cases within named in the same manner as if taken in each case separately.

Dated June 30, 1856.

C. BALLANCE.

Which said deposition and deed from Narcisse Pensoneau to deponent were read in evidence upon said former trial without objection of said defendant on account of the incompetency of said witness.

Deponent further states, that no notice had been given to deponent or to his attorney that any such objection would be made to said deposition prior to the present trial of said cause; and further, that said Ballance stated that he was fully aware of the facts upon which he intended to object to the evidence of said witness for some time prior to the commencement of the present term of this court.

ROBERT FORSYTH.

Subscribed and sworn to before me this 27th day of July, 1857.

WM. H. BRADLEY, *Cl'k.*

Endorsed: Filed July 27th, 1857.

WM. H. BRADLEY, *Cl'k.*

And the facts stated in said affidavit being admitted to be true, and the said Ballance, as party and attorney, having been present at the former trial of this cause, and being present at this trial, the

court was of opinion that under the circumstances the counsel of the plaintiff had a right to consider the objection waived by the defendants, and therefore overruled it because it came too late.

Plaintiff here rested, and defendant moved to exclude said patent from the consideration of the jury, which motion the court overruled.

Defendants then, to maintain the issue on their part, introduced in evidence—

1st. So much of said report of Edward Coles as has any reference to Bertrand's French claim No. 62.

2d. A duplicate receipt from the receiver of public money at the land office at Quincy, which is as follows:

Pre. act 1834.

No. 13,293.

RECEIVER'S OFFICE, QUINCY, ILLINOIS,
27*th November*, 1837.

Received from Charles Ballance, of Peoria county, Illinois, the sum of one hundred and eighty-four dollars and twenty-eight and $\frac{3}{4}$ cents, being in full payment for the southwest fractional quarter of section No. nine, in township No. eight north of the base line, of range No. eight east of the 4th principal meridian, containing one hundred and forty-seven acres and $\frac{43}{100}$ of an acre, at the rate of one dollar and twenty-five cents per acre.

$184 28¾. THO. CARLIN, *Receiver.*

(Duplicate.)

Endorsed: Filed April 6th, A. D. 1854, and recorded in book G A, page 142.

JACOB GALE, *Recorder P. C.*

3d. A certificate of the register of said land office at Quincy, which is as follows:

U. S. LAND OFFICE, QUINCY, ILLINOIS,
27 *November*, 1837.

I do hereby certify that Charles Ballance, of Peoria county, in the State of Illinois, did this day enter or purchase at this office the southwest fractional quarter of fractional section No. 9, in township No. 8 north, of range No. 8 east of the 4th principal meridian, containing one hundred and forty-seven and $\frac{43}{100}$ acres, certificate No. 13,293, as appears of record in this office.

SAM. LEECH, *Register.*

STATE OF ILLINOIS, COUNTY OF PEORIA,
, *Recorder's Office.*

I, Charles Kettelle, recorder of said county, do certify the within certificate is, this 28th day of May, A. D. 1840, duly recorded in said office in book L, page 186.

CHARLES KETELLE, *R. P. C.*

Endorsed: Filed April 6th, A. D. 1854, and recorded in G A, page 142.

JACOB GALE, *Recorder P. C.*

4th. A patent from the United States to Charles Ballance, which is as follows:

Certificate No. 13,293.

The United States of America to all to whom these presents shall come, greeting:

Whereas Charles Ballance, of Peoria county, Illinois, has deposited in the General Land Office of the United States a certificate of the register of the land office at Quincy, whereby it appears that full payment has been made by the said Charles Ballance, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the southwest fractional quarter of section nine, in township eight north, of range eight east, in the district of lands subject to sale at Quincy, Illinois, containing one hundred and forty-seven acres and forty-three hundredths of an acre, according to the official plat of the survey of the said lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said Charles Ballance: Now know ye, that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant unto the said Charles Ballance, and to his heirs, the said tract above described, to have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said Charles Ballance, and to his heirs and assigns forever, subject, however, to the rights of any and all persons claiming under the act of Congress of 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois."

In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the twenty-fourth day of January, in the year of our Lord one thou-
[L. S.] sand eight hundred and thirty-eight, and of the independence of the United States the sixty-second.

By the President,
MARTIN VAN BUREN.
By A. VAN BUREN, *Sec'y.*

Recorded, vol. 3, page 114.

H. M. GARLAND,
Recorder of the General Land Office.

STATE OF ILLINOIS, COUNTY OF PEORIA,
Recorder's Office.

I, Charles Kettelle, recorder in and for said county of Peoria, do hereby certify the annexed patent from the United States to Charles Ballance for the S. W. sec. 9, 8 N., 8 E., is duly recorded in said office in book P, page 478, on this 25th day of September, A. D. 1845.

CHARLES KETTELLE, *R. P. C.*

5th. A deposition of Almiron S. Cole, which is as follows:

Depositions of witnesses taken before me, Henry Grove, a notary public in and for the city of Peoria, in the county of Peoria and State of Illinois, at the office of Grove & McCoy, in the city of Peoria and State of Illinois, on the 25th day of June, A. D. 1857, to be read in evidence on the part of the defendant in a certain action of ejectment pending in the circuit court of the United States of America for the northern district of Illinois, wherein Robert Forsyth is plaintiff, and Richard Gregg is defendant, "by agreement of parties."

A. S. Merreman, esq., appeared on the part of the plaintiff, and Charles Ballance on the part of the defendants.

Almiron S. Cole, aged fifty-one years, being produced, cautioned and sworn on part of the defendants, deposes and says: I am fifty-one years old; I have lived in the town and city of Peoria twenty-one years, and have been acquainted with Charles Ballance for the same number of years. I am acquainted with the southwest fractional quarter of section nine, in township eight north, of range eight east of the 4 principal meridian, in the county of Peoria, and State of Illinois. In the fore part of the year 1844, I leased a part of said quarter from Mr. Ballance; the part I leased is now known as lot (3) three, in block 47, in Ballance's addition to Peoria, and being two hundred feet front on the Peoria and Oquaka railroad, and extending back to the river.

In February, 1844, I commenced building a distillery on the ground or lot leased from Ballance, and completed it, and had it running in September of that year; I occupied the lot, distillery, out-buildings, about two years and a half, when I sold to Sylvanus Thompson, and assigned the lease to him; Thompson took possession at the time I sold and assigned to him, and kept possession until his death. Richard Gregg married one of Thompson's daughters. During the time Thompson occupied said premises, Richard Gregg, one of the defendants in this suit, and a son-in-law of Thompson, was in possession with Thompson, either as partner or as clerk, and said Gregg remained in possession until about a year ago.

At the time I leased of Ballance the lot leased was unenclosed; I fenced it after I leased it.

A. S. COLE.

And I the said Henry Grove, a notary public in and for the city of Peoria, in the county of Peoria, in the State of Illinois, do hereby certify that the said Aquilla Moffatt and Almiron S. Cole, being carefully examined, and cautioned and duly sworn to testify the whole truth, and nothing but the truth, deposed as set forth in the foregoing depositions. And I do further certify, that the preceding depositions were reduced to writing by me, and signed by the said Aquilla Moffatt and Almiron S. Cole, by agreement of counsel, named in the caption of the depositions, at the office of Grove & McCoy, in the city of Peoria aforesaid, on the 25 day of June, A. D. 1857, and that I am not of counsel or attorney for either party to the said suit, nor am I interested in the event thereof.

[L. S.] In testimony whereof, I have hereunto set my name, and affixed my notarial seal this 25 day of June, A. D. 1857.

HENRY GROVE,
Notary Public.

6th. A deposition of George T. Metcalf, which is as follows:

Circuit Court of the United States for the northern district of Illinois.

ROBERT FORSYTH, Plaintiff,
vs.
RICHARD GREGG, Defendant } Ejectment.

Be it remembered, that on the 19th day July, A. D. 1856, at Peoria, in the county of Peoria, and State of Illinois, Charles Ballance, esq., personally appeared before me, a notary public in and for said county and State, and made oath that he was the attorney of the defendant in a suit pending in the circuit court of the United States for the northern circuit and district of Illinois, wherein Robert Forsyth is plaintiff, and Richard Gregg is defendant.

That the testimony of George T. Metcalf was material and necessary for the said defendant in the defence of such suit, and that he the said Metcalf lived at Peoria, in the county of Peoria, and State of Illinois, more than one hundred miles from Chicago, where the court at which the said affiant, Ballance, expected the said cause would be tried, was appointed by law to hold; and that Robert Forsyth, the above named plaintiff, resided in the State of Missouri, more than 100 miles from Chicago aforesaid, and that two of plaintiff's attorneys were in Chicago aforesaid; and Julius Manning, the only other attorney of the plaintiff, was too sick to receive the notice, and that notice was given to the person in charge of his office; and the said Ballance requested me that the said witness might be examined according to the directions of the act of Congress in such case made and provided; whereupon, I ordered that the said Metcalf should be examined de bene esse before me, at his office in Peoria, county of Peoria, and State of Illinois; and I having satisfactory proof that such notice had been given, and the said Bal-

lance appearing before me at the office of said Metcalf, in the county of Peoria, and State of Illinois, on this 19th day of July, A. D. 1856, I have therefore proceeded with the examination; and the said Metcalf, being first carefully examined and cautioned, and duly sworn by me, to testify the truth, the whole truth, and nothing but the truth, says as follows:

ROBERT FORSYTH } vs. RICHARD GREGG. } Ejectment.

Deposition of George T. Metcalf.

Examined by Defendant's counsel.

My name is George T. Metcalf; my age is upwards of forty years, and I reside in the city and county of Peoria, in the State of Illinois. I came to Peoria to reside in November, 1836, and have resided here ever since, except during the time from the summer of 1851 to the fall of 1854; during the time of my residence in Peoria I have been a practising lawyer, and have known something of land titles and controversies respecting land in and about Peoria; I have known Charles Ballance ever since I resided here, and he has always claimed to own the southwest quarter of section nine, township eight north, range eight east, in Peoria county, except where he may have sold some part thereof, and he claimed said land adversely to all men, and in particular adversely to all French claimants, so called, and such claim and holdings on his part was well known in Peoria. Mr. Ballance has resided on said southwest quarter from 1844 until the present time; my knowledge of his residence during the period of my absence aforesaid from Peoria is not personal knowledge, of course.

GEO. T. METCALF.

And I do further certify, that the preceding deposition was reduced to writing by me, and signed by the said Metcalf; and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof. In testimony whereof, I have hereunto set my hand and affixed my notarial seal this 19th day of July, A. D. 1856.

GEORGE S. BLAKELY, [L. S.]
Notary Public.

7th. A deposition of Isaac Underhill, which is as follows:

Circuit Court of the United States for the northern district of Illinois.

Be it remembered, that on the 19th day of July, A. D. 1856, at Peoria, in the county of Peoria, and State of Illinois, Charles Ballance, esq., personally appeared before me, a United States commissioner in and for said county and State, and made oath that he was

attorney of the defendant in a suit then pending in the circuit court of the United States for the northern circuit and district of Illinois, wherein Robert Forsyth is plaintiff and Richard Gregg is defendant; that the testimony of Isaac Underhill and William E. Mason was material and necessary for the said defendant in the defence of such suits; and that they, the said witnesses, lived at Peoria, in the county of Peoria, and State of Illinois, more than one hundred miles from Chicago, where the court at which the said affiant, Ballance, expected the said cause would be tried, was appointed, by law, to hold; and that Robert Forsyth, the above named plaintiff, resided at St. Louis, in the State of Missouri, more than 100 miles from Chicago aforesaid; and that two of his attorneys were in Chicago, about 160 miles from Peoria aforesaid; and that the other attorney of said plaintiff, Julius Manning, was too sick to receive notice; and that notice was given to the person in charge of his office, and the said Ballance requested me that the said witnesses might be examined according to the directions of the act of Congress in such case made and provided; whereupon, I ordered that the said Underhill and Mason should be examined de bene esse before me at my office in Peoria, county of Peoria, and State of Illinois; and I having satisfactory proof that such notice had been given, and the said Ballance, attorney of said defendant, appearing before me at my said office, in the county of Peoria, and State of Illinois, on this 19th day of July, A. D. 1856, I have, therefore, proceeded with the examination, and the said Underhill, being first carefully examined and cautioned, and duly sworn by me, to testify the truth, the whole truth, and nothing but the truth, says as follows:

Deposition of Isaac Underhill.

Examined by Defendant's counsel.

My name is Isaac Underhill; I reside in the city and county of Peoria, and State of Illinois, and my age is forty-eight years; I first came to Peoria in 1833, and was in Peoria a good deal of the time up to 1840; since 1840 I have resided here permanently. I have known Charles Ballance ever since 1834; he was then in possession of a part of the southwest quarter of section nine, in township eight north, range eight east, in Peoria county, and claimed to own the whole quarter. In 1834 said Ballance lived on the southeast quarter of said section, but in 1844 he removed his residence to said southwest quarter, where he has ever since resided. From 1834 down to the present time Mr. Ballance claimed to own, and hold in his own right, the said southwest quarter, and to hold the same adversely to all persons, and especially against French claimants under the act of March 3, 1823.

ISAAC UNDERHILL.

And I do further certify, that the preceding deposition was reduced to writing by me, and signed by the said Underhill; and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof. In testimony whereof, I have hereunto set my hand, and affixed my private seal, this 19th day of July, A. D. 1856.

GEO. T. METCALF, [SEAL.]
U. S. Commissioner.

8th. A deposition of Aquilla Moffatt, which is as follows:

Depositions of witnesses taken before me, Henry Grove, a notary public in and for the city of Peoria, in the county of Peoria, and State of Illinois, at the office of Grove & McCoy, in the city of Peoria, and State of Illinois, on the 25th day of June, A. D. 1857, *be* be read in evidence on the part of the defendant in a certain action of ejectment pending in the circuit court of the United States of America for the northern district of Illinois, wherein Robert Forsyth is plaintiff and Richard Gregg is defendant, "by agreement of parties."

A. L. Merriman, esq., appeared on the part of the plaintiff, and Charles Ballance on the part of the defendant.

Aquilla Moffatt, of the county of Peoria, being produced, cautioned and sworn, deposes and says: I am fifty-five years old; I have lived near the city of Peoria for thirty-five years; I have been well acquainted with Charles Ballance since 1832; I know that Ballance resides on the southwest fractional quarter of section nine in township eight north, of range eight east of the fourth principal meridian, in the city and county of Peoria and State of Illinois; he has resided on that fractional quarter since June, A. D. 1844; he was engaged a couple of years in building his house before he moved into it, and before June, 1844. Ballance claimed to be the owner of said fractional quarter, and was in possession of the same as early as 1832, and has cultivated parts of it from 1832 until the present time. Ballance moved from the yellow house on the southeast fractional quarter of the same section, into the house he now occupies, situate on the southwest fractional quarter.

On cross-examination.

In 1832, Ballance had about half an acre enclosed on the southwest fractional quarter, and had the same in cultivation; the enclosure was above the road, now Water street, and about opposite but a little above the Peoria and Oquaka Railroad Co.'s depot. In 1832 he had no other enclosure on said fractional quarter that I know of. At the time Ballance built his house he had twenty acres, and perhaps considerably more, enclosed. The large enclosure was between Adams street and Water street, and included the small one.

At one time Ballance's fences, on the upper side of said enclosure and lower line of said quarter, extended across Water street and down to the river bank, so that the river bank constituted a part

of his enclosure; as near as I can recollect it was after Ballance moved into his present dwelling. The enclosure was below the distillery formerly occupied by A. S. Cole.

A. MOFFATT.

And I, the said Henry Grove, a notary public in and for the city of Peoria, in the county of Peoria, in the State of Illinois, do hereby certify that the said Aquilla Moffatt and Almiron S. Cole, being carefully examined and cautioned and duly sworn to testify the whole truth, and nothing but the truth, deposed as set forth in the foregoing depositions; and I do further certify that the preceding depositions were reduced to writing by me and signed by the said Aquilla Moffatt and Almiron S. Cole by agreement of counsel, named in the caption of the depositions, at the office of Grove & McCoy in the city of Peoria aforesaid, on the 25th day of June, A. D. 1857, and that I am not of counsel or attorney for either party to the said suit, nor am I interested in the event thereof.

In testimony whereof, I have hereunto set my name and affixed [L. S.] my notarial seal, this 25th day of June, A. D. 1857.

HENRY GROVE,
Notary Public.

9th. A deposition of Notley H. McKean, which is as follows:

Deposition of Notley H. McKean, taken before me by agreement of parties at my office in Peoria, on the 29th day of June, 1857, in the city of Peoria and State of Illinois, to be read in evidence in a certain cause pending in the United States circuit court for the State of Illinois in the northern circuit and district, in ejectment, wherein Robert Forsyth is plaintiff, and Richard Gregg is defendant, on the part of defendant. A. S. Merriman appeard for pl'ff and C. Ballance for deft's. Notley H. McKean, of the county of Tazewell *county*, aged 46 years, being produced, cautioned and sworn by me on the part of the defendant, deposeth and says:

I am forty-six years old; I first came to Peoria in September, A. D. 1837. I have known Charles Ballance since 1838; I have been well acquainted with the southwest quarter of section nine in township 8 north, of range 8 east, in the city and county of Peoria and State of Illinois, since April 1st, 1839. Between the first day of April and the tenth day of that month, in the year 1839, I moved on to said quarter with my family, and lived thereon until the spring of 1854, except about 6 months in 1843. I first went on to said quarter in April, A. D. 1839, as a tenant under said Ballance. At that time Ballance had about six acres enclosed on that quarter, and in 1840 Ballance had enclosed from twenty-two to twenty-four acres on said quarter. The six acres enclosed was between Water street and Washington street. The six acres were cultivated in 1839, and from appearances I judged the six acres were enclosed some three years before. Ballance, prior to April,

1839, had a pasture lot between the six-acre lot and the river, that had been fenced. At that time, viz. April, 1839, Ballance had a double frame dwelling-house on said *said* quarter, calculated for two families. I moved into the double house, and continued to live therein with my family until the fall of 1841. There were three families in said house as tenants under Ballance. The house I moved into stood on what is now called Water street, in the city of Peoria, and now the Peoria and Oquaka railroad, and I should think less than one hundred yards above the distillery built by A. S. Cole, and for years afterwards occupied by Richard Gregg, the defendant. I continued on that quarter as Ballance's tenant for five years from April, 1839. Said twenty-two acres enclosed was cultivated in 1840, and has been cultivated and occupied by Ballance and those holding under or through him from 1840 unto the present time.

In the year 1839, I purchased an acre of land on said quarter of Ballance, and built a house thereon in 1841, and moved into it with my family in the fall of 1841, and continued to reside in said last mentioned house with my family until the spring of 1854, except about 6 months in 1843, but I continued to cultivate the whole of the 22 acre field for five years, as tenant for Ballance. During the time I moved out of said house in 1843, I had tenants residing therein with their families; since I moved off from said quarter in the spring of 1854, I have had a number of tenants in my houses on said acre purchased of Ballance. Since I came to Peoria, Ballance has had tenants living on said quarter section continuously, and of late years has had a considerable number of them. Ballance at first built on adjoining quarter section, but about the year 1842 he commenced building the house he now lives in, which is a large and expensive brick residence. In 1842, I dug the cellar. In the early part of 1844, he moved into it with his family, and has continued to reside therein since.

At the time I moved on to said quarter in 1839, the fences around the field were old and dilapidated, so that it required considerable repairs before I could raise a crop. Said field was all on the upper side of the railroad or Water street, but the ground between that and the river had manifestly been fenced in; for part of the fencing materials between that and the river was still on the ground, and I, in the employment of said Ballance, removed them in enlarging said field. Said Ballance afterwards employed another man, Elias Wood, I believe, to fence in said land again by itself as a portion, it being wood-land; however, all this part of said tract of land has for several years been thrown open and built upon by persons claiming under said Ballance. I remember well when A. S. Cole built a distillery on said tract, for I assisted him in getting the lumber for the same, and I remember that Jacob Lawrence was then, and for some time previously thereto had

been in possession, under said Ballance, of the portion of said tract lying between Water street and the river, and above the part occupied by said Cole. Said Lawrence was a man of a family, and lived on said land, and also had a slaughter-house on it. Said Lawrence was living in a house on said quarter section belonging to said Ballance when I went to live in Peoria, and lived in it until he built his own house between the river and Water street, and he continued to live in said last mentioned house until he sold out to one A. W. S. Goodwin, and gave him possession. I know of Goodwin living on said lot and carrying on the lard-oil and candle business, for several years thereafter. At one time, said Goodwin only claimed to own a portion of said grounds above where Cole built his distillery, because I had a title-bond from Ballance for part which I afterwards transferred to said Goodwin. But before *but before* said transfer of said bond, said Goodwin occupied it with the consent of Ballance and myself; said Ballance claimed said quarter on which his said farm was improved as aforesaid, in his own right, and adversely to all the world, but particularly to that class of claims called French claims.

N. H. McKEAN.

UNITED STATES OF AMERICA,
State of Illinois, Northern Circuit.

I, Henry Grove, a notary public in and for the city of Peoria, in the county of Peoria, and State of Illinois, duly commissioned and qualified, do hereby certify, that the above deposition was taken before me at my office in the city and county of Peoria, and State of Illinois, on the 29th day of June, A. D. 1857; that said Notley H. McKean was first by me duly cautioned, examined and sworn, to testify the truth, the whole truth, and nothing but the truth, in the cause mentioned in the caption; that said deposition was reduced to writing by me, and signed by said Notley H. McKean. I further certify, that I am not of counsel for either party, and that I have no interest in this suit; that this certificate was written at my request by Joseph F. Wilson, my clerk, in consequence of ill health.

In testimony whereof, I have hereunto set my name and notarial seal at Peoria, the day and year first above written.

[L. S.]

HENRY GROVE,
Notary Public.

Whereupon defendant rested, and plaintiff introduced in evidence a paper, which is as follows:

No. 13,293. *27th day of November*, 1837.

I, Charles Ballance, of Peoria county, and State of Illinois, do hereby apply for the purchase of the southwest fractional qr. of section numbered nine, in township numbered eight north, of range numbered eight, east of the fourth principal meridian, containing

one hundred and forty-seven $\frac{43}{100}$ acres, according to the returns of the surveyor general, for which I have agreed with the register to give at the rate of one dollar and twenty-five cents per acre, subject, however, to the rights of any or all persons claiming under act of Congress 3d March, 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.

C. BALLANCE.

I, Samuel Leech, register of the land office at Quincy, Illinois, do hereby certify, that the frac'l qr. section above described contains 147 $\frac{43}{100}$ acres as mentioned, and that the price agreed upon is $1 25 per acre. Pre. act 1834.

SAM'L LEECH, *Register.*

LAND OFFICE, QUINCY,
Nov. 9th, 1854.

I, A. C. Marsh, register of the land office at Quincy, Ill., do hereby certify, that the foregoing is a true and correct copy of the original application of Charles Ballance, now on file in this office.

A. C. MARSH, *Register.*

Defendant then introduced a plat of Ballance's addition to Peoria, made in April, 1846, as follows:

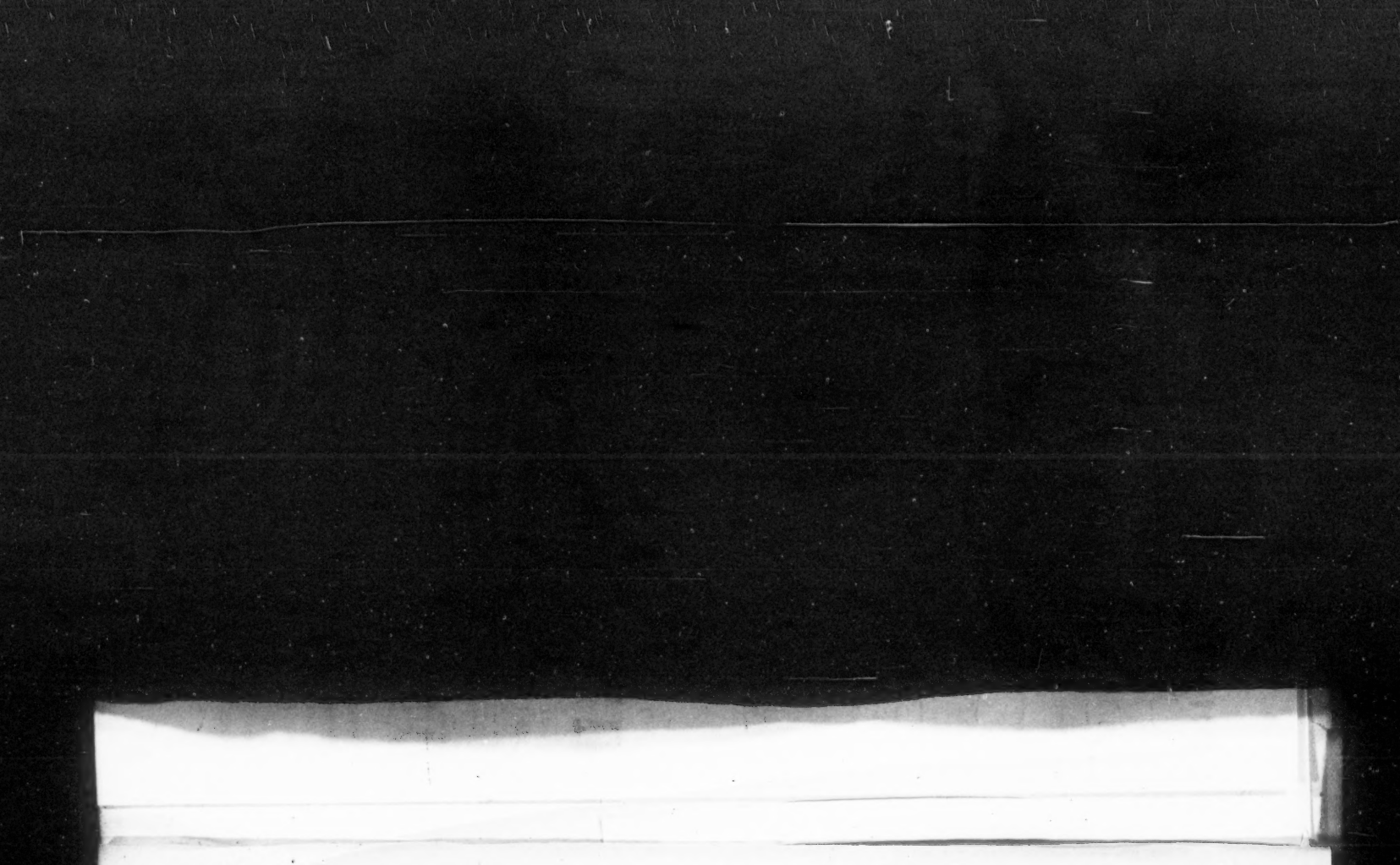
[*For plat see original, page* 125.]

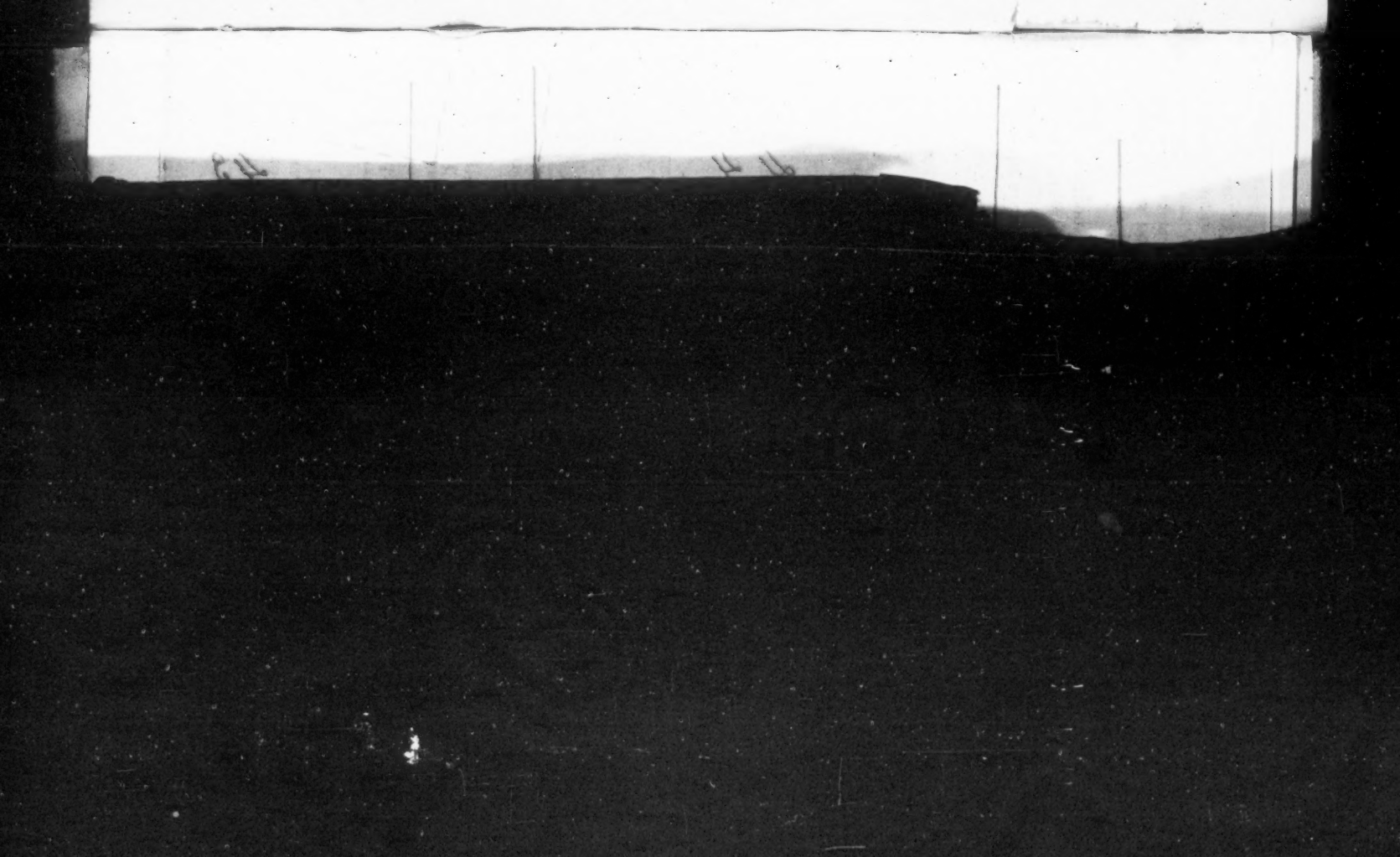
I, Charles Ballance, proprietor of the within addition to the town or city of Peoria, do hereby certify and acknowledge, that the within a correct plat thereof, surveyed with my consent and under my direction, by George C. McFadden, county surveyor of Peoria county, in the State of Illinois, and that the said streets and alley are hereby vested in the board of aldermen of said city for the use of the public: Provided, however, that I reserve to myself the right to enclose or keep enclosed, until the public interest shall require them to be opened, of which interest I am to be the judge, all said streets except Adams, Water, Hudson and Chesnut, and all the alleys except those below Adams street and above Chesnut street: Provided further, that I reserve to myself, my heirs and assigns forever, the exclusive right of establishing bridges, ferriages, and fishing on said land, this survey notwithstanding. In witness whereof, I have hereunto set my hand and seal, this 10 April, 1846.

C. BALLANCE. [SEAL.]

STATE OF ILLINOIS,
County of Peoria, sct.

Personally appeared before me, Jonathan K. Cooper, a justice of the peace of said county, Charles Ballance, whose name is sub-





scribed to the above acknowledgment as having executed the same, and who is personally known to me to be the same, and acknowledged the execution thereof to be his free act and deed, for the uses and purposes therein expressed. Dated this 10 day of April, 1846.

JONATHAN K. COOPER, *J. P.*

I, George C. McFadden, county surveyor of the county of Peoria, and State of Illinois, do hereby certify, that the within plat is a true survey of Ballance's addition to the town of Peoria, as surveyed and laid off by me on the southwest quarter of section 9, T. 8 N., R. 8 E. of the fourth principal meridian, at the instance of said Ballance, the proprietor thereof, on the 10th day of February, 1846. All the streets, alleys, and blocks were by me accurately measured, and are of the dimensions specified on said plat. At the intersection of Walnut and Adams streets, it being the easterly corner of block No. 41, I planted a stone from which to make future surveys. At all the other corners of blocks, I caused stakes to be driven down. Although the blocks are divided into lots of sixty feet each on the plat, no corresponding stakes were driven, it being deemed by the proprietor unnecessary.

Given under my hand at Peoria, this 10th day of February, 1846.

G. C. McFADDEN, *C. S. P. C.*

Variation allowed in making the above survey, 7° 10′.

STATE OF ILLINOIS,
County of Peoria, Recorder's Office.

I, Charles Kettle, recorder in and for said county, do hereby certify, the within plat is duly recorded in said office, in book Q, pages 305 and 306, this 24th day of April, A. D. 1846.

CHARLES KETTLE, *R. P. C.*

And a plat showing the connection of Ballance's addition to Peoria, with survey of the French village, as surveyed by Brown.

[*For plat see original, page* 128.]

In the above plat, the black lines represent block 47, of Ballance's addition and its environs, and the red lines represent so much of the Peoria French claims as interferes with said block 47.

Whereupon the defendants asked the court to instruct the jury as follows:

1st. If they believe that the defendant, Ballance, by himself and tenants, has been in the actual possession, by residence, of the premises in controversy for more than seven years before the commencement of this suit, the plaintiff cannot recover in this action.

2d. That, to constitute actual residence under the law governing

this case, it is not necessary that the dwelling-house of the party should have been on this particular spot. It is sufficient if it were upon the same tract or subdivision of land, and that he was cultivating, occupying, and claiming the whole under the title he has here exhibited.

3d. If the jury shall believe, from the evidence, that said Ballance, being in possession under the title he has exhibited here, leased the particular spot of ground in controversy to Almiron S. Cole more than seven years before the commencement of this suit, and that said Cole took possession thereof, and built a steam distillery and other fixtures thereon, more than seven years before the commencement of this suit, and that said Cole held possession thereof, and occupied it as a place of business, until *until* he sold said establishment to Sylvanus Thompson, and that Sylvanus Thompson and his son-in-law, Richard Gregg, the defendant, who was either a partner or clerk of said Thompson, occupied the same until the death of said Thompson, and that said Gregg occupied the same until the commencement of this suit, the *the* plaintiff is not entitled, by law, to succeed in this suit.

4th. It is not necessary for this defence that either said Cole, Thompson, or Gregg should have *have* had his dwelling-house on this particular spot. It is sufficient if *the* lived in the vicinity, and occupied the lot in controversy as their place of business.

5th. The plaintiff has not shown a legal title to the property in controversy.

6th. The plaintiff's legal title vested on the first of September, 1840, when the survey of the French village was approved, and not when the patent to the legal representatives of Antoine Lapance was issued.

7th. Said patent to the legal representatives of Antoine Lapance is void, and conveys no title whatever.

8th. Defendant asks the court further to instruct the jury, that the clause in the patent from the United States to Charles Ballance, "subject to the rights of all persons," &c., is without any efficacy, so far as their action in this case is concerned. That, in their consideration of this case, they are to consider and treat this patent precisely as if that clause was not interlined in said patent.

9th. That the title, which the defendant has given in evidence in this case, is such a one as will draw to it the protection of the statute of limitations, provided all other things which the law requires to secure the bar of the statute have concurred with the title; and if they believe, from the evidence, that the defendant, either by himself or tenants, has occupied the premises in controversy by actual residence for more than seven years immediately preceding the commencement of this suit, that then they will find the defendant not guilty.

10th. That if they believe, from the evidence, that the defendant,

either by himself or tenants, has occupied property adjoining the property sued for for seven years immediately preceding the commencement of this suit by actual residence thereon, and that during all of said time said defendant, or his said tenants, also occupied the property sued for in this case as part and parcel of the premises on which they so resided, that then they will find the defendant not guilty.

11th. That, to constitute residence within the meaning of the law, it is not necessary that the defendant, or his tenants, should have had the house in which they, or either of them, resided, or any other house of any kind, upon the land in controversy; but if defendant or his tenants resided upon land adjoining that in controversy, and used and occupied the property sued for as a place of business, and as part and parcel of the property on which such residence was, and continued such residence and occupancy for seven years immediately preceding the commencement of this suit, that then the defendant would be within the meaning of the statute of limitation of 1835, and entitled to its protection.

Which instructions, in the form asked, the court refused to give, but instructed the jury as follows, to wit:

Forsyth vs. Gregg and Ballance. Instructions of the Court to the Jury.

1. The acts of Congress of 1820 and 1823, in connexion with the report of Mr. Coles, the surveys of 1837, approved in Sept., 1840, and the patent of Feb. 1, 1847, conveyed the legal title to the legal representatives of Antoine Lepance, of French claim No. 63. The grant took effect, as to the location, from the time of the approval of the survey.

2d. As to the deed of 3d of January, 1846, the court said to the jury: "The deposition of Narcisse Pensoneau is attached to this deed, and he is a subscribing witness to it, and identifies it. In the body of the deed the name is spelled Glodon, as well as in the signature and acknowledgments. In the deposition it is spelled Godon (without the l); but the witness refers to the person who executed the deed as being the widow of Lepance. It will be seen all the grantors make their mark. The parties were French, and it is for the jury to determine whether there was a clerical error in the deposition. If they are satisfied from the evidence that the widow of Antoine Lepance duly executed the deed, then it conveyed her interest."

3. As to the deed of March 11, 1850, the court said to the jury: "If the grantor was the daughter of Mrs. Valentine, then the deed is valid, unless she was under some disability, as marriage, &c., and it was for the jury to determine whether any such disability existed at the time of the execution of the deed."

4. As to the record of the circuit court of Peoria and the commissioners' deed, the court said to the jury: There may possibly be

this case, it is not necessary that the dwelling-house of the party should have been on this particular spot. It is sufficient if it were upon the same tract or subdivision of land, and that he was cultivating, occupying, and claiming the whole under the title he has here exhibited.

3d. If the jury shall believe, from the evidence, that said Ballance, being in possession under the title he has exhibited here, leased the particular spot of ground in controversy to Almiron S. Cole more than seven years before the commencement of this suit, and that said Cole took possession thereof, and built a steam distillery and other fixtures thereon, more than seven years before the commencement of this suit, and that said Cole held possession thereof, and occupied it as a place of business, until *until* he sold said establishment to Sylvanus Thompson, and that Sylvanus Thompson and his son-in-law, Richard Gregg, the defendant, who was either a partner or clerk of said Thompson, occupied the same until the death of said Thompson, and that said Gregg occupied the same until the commencement of this suit, the *the* plaintiff is not entitled, by law, to succeed in this suit.

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5th. The plaintiff has not shown a legal title to the property in controversy.

6th. The plaintiff's legal title vested on the first of September, 1840, when the survey of the French village was approved, and not when the patent to the legal representatives of Antoine Lapance was issued.

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4. As to the record of the circuit court of Peoria and the commissioners' deed, the court said to the jury: There may possibly be

error in these proceedings for which the higher court might reverse the decree, but here it is attacked collaterally by a stranger to the proceedings, and the settled rule in such case is, that the decree is to be held valid if the court had jurisdiction of the parties and of the subject-matter. The court had jurisdiction of both in this case, and it must stand as a decree divesting the title of the parties to it until it is set aside by a higher court.

5. By the papers introduced in evidence by the defendants, Ballance acquired no absolute title to French claim 63. The other title under the act of 1823 was the permanent title.

6. In order to be protected under the law of 1835, Ballance, or those claiming under him, must have had possession by actual residence on the land in controversy from July, 1848, to July, 1855.

7. The Supreme Court of the United States recently decided, that a party holding such a title as the defendant has shown in this case, had the kind of title required by the statute.

8. Whether there was an actual residence or not for seven years is a question of fact exclusively for the jury.

9. If Ballance had his house on one part of the quarter, and his improvement extended over and included lot 63, so as to be connected with his residence, and to form a part thereof, or it was used in connection therewith, that would, within the meaning of the law, constitute actual residence. If Ballance built on one part of the quarter, and this lot 63 was left vacant and unoccupied, and unimproved, that would not, as to that lot, constitute an actual residence. If Ballance, his tenants, or those holding under him, actually resided on a lot adjoining lot 63 for seven years immediately preceding the commencement of the suit, and during all that time occupied lot 63 as a place of business, as part and parcel of the premises so resided on by them, that would constitute an actual residence within the meaning of the law, as to this lot in controversy. It is proper for the jury to consider the circumstances of the subdivision of the land into lots and blocks, by Ballance, in April, 1846, and whether a severance of the holding, as to the particular lots and blocks so subdivided, was thereby created. When ground is subdivided in that manner under our law, there can be no doubt that different lots and blocks may be so occupied as to constitute an actual residence in them all; but ordinarily, in case of subdivision, the construction of a house on a separate lot or blocks, and a residence therein, without any connexion with adjoining or neighboring lots or blocks, does not constitute an actual residence as to the whole.

10. It is for the jury to determine whether the facts and circumstances stated by the witnesses made the defendant, Ballance, or those claiming under him, actual residents of the lot in controversy for seven years before the commencement of the suit; if they did, then the defendants are within the protection of the statute, otherwise not.

2720.

To all of which decisions and rulings of said court against said defendants they then and there excepted, and pray that their bill of exceptions may be sealed, signed and made of record, which is done.

THOMAS DRUMMOND. [SEAL.]

July 29, 1857.

Endorsed: Filed August 8th, 1857.

WM. H. BRADLEY, *Clerk.*

NORTHERN DISTRICT OF ILLINOIS, *ss.*

I, William H. Bradley, clerk of the circuit court of the United States for said northern district of Illinois, do hereby certify the foregoing transcript to be a true, full and perfect copy from the record of all the proceedings which have been had in said court, in said cause of Robert Forsyth vs. Richard Gregg and Charles Ballance.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at my office, in Chicago, in said [L. S.] northern district, this thirtieth day of November, in the year of our Lord one thousand eight hundred and fifty-seven, and of our independence the eighty-second year.

WILLIAM H. BRADLEY, *Clerk.*

Filed 15th December, 1857.